

HIBERNICA.

PART II.

O R,

TWO TREATISES

RELATING TO

IRELAND.

CONTAINING,

I. A Declaration setting forth how, and by what Means, the Laws and Statutes of *England*, from Time to Time, came to be of force in *Ireland*; said to be written by Sir *Richard Bolton*, Lord Chancellor of *Ireland*.

II. The Answer of Sir *Samuel Mayart*, Serjeant at Law, and second Judge of the *Common-Pleas* in *Ireland*, to a Book intituled, a Declaration setting forth how, and by what Means, the Laws and Statutes of *England*, from Time to Time, came to be of force in *Ireland*.

Now first published from two Manuscripts formerly in the Possession of the late *WALTER HARRIS*, Esq;

To which is prefixed, a Preface, shewing the Occasion of writing the said Treatises, and the Proceedings of the two Houses of Parliament thereupon.

*Tres mihi Convivæ prope dissentire videntur,
Pescantes vario multum diversa palato.
Quid dem? Quid non dem? renuis tu quod jubet alter:
Quod petis, id sane est invisum acidumque duobus.*

HOR. EPIST.

Mibi isthic nec feritur nec metitur.

PLAUT.

— *Laudatur ab his, Culpatur ab illis.*

HOR. SAT.

Cedo quemvis Arbitrum.

TER.

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P R E F A C E.

WHEN I committed the two Manuscripts, now printed, to the care of the Editor, I intended to have no more trouble with them, than merely to conduct them through the Press as free from Errors as possible, and also to give a literal translation of the Records, that they might be of use to the *English* Reader. But now, from his importunity, supported by the Bookseller's reasons, I find I must have the trouble of writing a Preface,—an arduous task, and which would favour too much of vanity, perhaps of folly, if he intended by his request, that I should set myself up as an Arbitrator between two Gentlemen of such learning, name, and abilities, as the Authors, or supposed Authors of these Treatises were. Sir *Samuel Mayart*, though styled in the Manuscript only Serjeant at Law, was, at the time of writing the second Treatise, and long before, second Justice of the Court of Common Pleas, and was indisputably the Author of it, his name being to all the Copies of it I have seen; and he appears by the Journals of the House of Lords to have been the transacting Person in all the messages and proceedings had between the two Houses on occasion of the Declaration; and he insinuates *p.* 24. “that he writ it” to give some preparations to the considerations then intended to be had between the two houses on that occasion.”

There is no certain evidence, that Sir *Richard Bolton*, who was Chief Baron of the Exchequer, and at the time of this controversy, Lord Chancellor of *Ireland*, was the Author of the Treatise ascribed to him; which I have done only on the authority of one Manuscript, to which his name appears. But I am inclined rather to give the honour of the performance to *Patrick Darcy*, Esq; an eminent Lawyer, and an active Member of the House of Commons in the Parliament assembled at *Dublin* in 1640, when the Papists had a share in the Legislature, as well as the Protestants. There is extant in print an argument * of his delivered by express order of the House of Commons on the 9th

* Printed at *Waterford* by *Thomas Bourke*, Printer to the *Confederate Catholics of Ireland*, 1643, Quarto.

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of *June 1641*, made at a conference of the Commons with a Committee of the Lords, upon certain questions propounded to the Judges of *Ireland* in full Parliament, and their answers, in which conference he was Prolocutor. In this argument he alledges much of the substance of what is to be seen in the Declaration now published, and therein particularly insists, *p 67*, "That the general statutes of *England*,
 " were received in *Ireland*, some at one time, some at another, but all general statutes by *Poining's Act* of the
 " 10th of *Hen. 7.* and, that no other statute, or new introductive law is of force in *Ireland*, until the same be
 " first received and enacted in the Parliament of that kingdom; which, proceeds he, may appear by two declarative statutes, the one of the 10th of *Hen. 4.* and the other of the 29th of *Hen. 6.*" The Declaration of the House of Commons upon occasion of this conference was, among other things, "that the subjects of *Ireland* were a
 " free People, and to be governed only according to the
 " Common Law of *England*, and statutes established by the
 " Parliament of *Ireland*, and according to the lawful customs used therein." The conformity between what is alledged in the Declaration, and in *Darcy's* argument, inclines me to think him the Author of that paper.

This was the first beginning of the controversy; but what gave a more immediate rise to it was the Act of *Adventurers* passed in the Parliament of *England* 17th Car. 1. for suppressing the rebellion of *Ireland*, of which the *Irish* Rebels, in their Remonstrance from *Trim*, delivered to his Majesty's Commissioners there on the 17th of *March*, 1642, loudly complain, and alledge, that it was declared in print by the order of the Lords Justices, that *Ireland*, if named, was bound by an English statute, which (they say) was against law and custom for 400 years past: and that from the reign of King *Hen. 2.* there is no precedent that a statute made in *England* had any force in *Ireland*, until enacted there. That now, by false suggestions, an Act of *Adventurers* 17 Car. had passed in *England*, whereby the *Irish*, unsummoned and unheard, were declared Rebels, and two millions and a half of acres of their land disposed of: which Act, though forced on his Majesty, and in itself unjust and void, yet continues of evil consequence, and extreme prejudice to his Majesty, and totally destructive of the *Irish* Nation; which therefore they
 protest

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protest against, as an Act without precedent, against the King's prerogative, and the fundamental laws of the kingdom, praying, amongst other things, that Poining's Act may be suspended pro hac vice, and either continued or repealed, as shall be thought fit.

This Act of *Adventurers*, how necessary soever to suppress the Rebellion, and the position raised from thence in relation to *English* Acts binding in *Ireland*, was then deemed by many equally to affect the Protestants and Papists in that kingdom. This the Lords Justices declare in their answer to the *Irish* Remonstrance, and further alledge, "that
" whether the Parliament of *Ireland* have equal power and
" privileges with the Parliament of *England*, and whether
" an *English* statute can bind *Ireland*, is a matter fitter
" to be disputed by arguments than arms; but that it is
" false, that the Act of *Adventurers* in *England*, was ground-
" ed or occasioned by any misinformation from *Ireland*,
" which was subsequent to the Rebellion, and so could not
" be a cause of it."

This remonstrance and answer raised Parties among the Protestants, some holding the affirmative, and others the negative side of the question. Many copies of the *Declaration* in writing, now printed, went abroad, and at length a complaint was made of it in the House of Lords. What passed upon that occasion will be best set forth in the words of the Journals of that House, &c.

April 10. 1644. It is this day ordered by the Lords, &c. that Mr. Justice *Mayart*, and Mr. Baron *Hilton*, do repair to the House of Commons to morrow morning, with the book intituled, *A Declaration how, and by what means the Laws and Statutes of England came to be of force in Ireland*, and desire that House to take the said book into consideration, and to appoint a Committee to meet a Committee of this House, to have a Conference touching the said book.

April 12th, 1644. Mr. Justice *Mayart* reports, that they delivered the Message of this House yesterday to the House of Commons, together with the book, and that they say, they will take it into consideration, and return an answer by Messengers of their own.

April 16th, 1644. The Earl of *Roscommon* moves, that there be a message sent to the Commons to let them know, that they have expected them here these three days, and to

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know what they have done with the book then sent them, and what they should expect therein.

April 17th, 1644. A message from the Commons. Mr. *Recorder* acquaints the Lords, that the House of Commons appointed *this Morning* at 6 o'Clock to treat of the book sent down by this House to the Commons; and the said House being full, the said book was read through, and after debating it was resolved, that those of the Long Robe of that House should take it into consideration by the next Session, and that to that end they laid a command upon their Clerk to get Copies made of it; and desire, that the Judges, who attend this House, may likewise take the same into consideration, whereby it may be better discussed by next Session.

April 18th 1644. The Lord Chancellor propounds, that there be an answer sent to the Commons in Answer to Mr. Recorder's message yesterday, *viz.* that this House thinks fit, according to their desire, that the Judges here do join with those of the long Robe of that House *privately* to take into consideration the book intituled, *A Declaration, &c.* by the next Session. Mr. Justice *Mayart* reports, that they delivered the message of this House to the Commons, and saith, that they do well allow of the course propounded by this House touching the joining those of the long Robe of this House, with those of that House, to consider *privately* of the book intituled, *A Declaration, &c.*

It does not appear by the Journals what proceedings were further had upon this occasion, nor what resolutions the two Houses came to upon the conference. The Parliament was prorogued to the 6th of *May*, from thence to the 4th of *June*, and then to the 11th of *July*; and the 15th Session, which was that appointed to meet on the 11th of *July* is wanting in the Journals; and it visibly appears, that a leaf was torn out in the place, where the proceedings of the said Session were entered, and the same of the 25th Session. And the Journals of the Commons of 1644 are all wanting. So that if any resolutions upon this subject were entered in either of the said Places, we are left in the dark what they were.

All I can add is, that if the arguments advanced in either of these treatises shall contribute any thing to settle the minds of his Majesty's good Subjects in relation to the controverted

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troverted points, the end of publishing them will be abundantly answered. I was in hopes they would have appeared in the world something earlier ; but the unaccountable delay of the press prevented these Intentions. Not that it is yet too late ; for the billows still swell, though the storm is abated. It is in the option of the Readers which side of the controversy they will embrace. Truth is adorned with such amiable and convincing Characters, that it surely will in the end prevail, though a *Plato* or a *Socrates* should undertake to baffle it ; and whoever of these Authors bears that character (which is nakedly submitted to the judicious Reader) his arguments will carry off the prize.

The Manuscripts now published were, among a great variety of others, lent to me by the Right Reverend Doctor *John Sterne*, late Lord Bishop of *Clogher*, who was pleased to give me licence to copy as many of them as I pleased, which I made use of to my full satisfaction ; after which he made an inestimable present of them to the Gentlemen of *Trinity-College, Dublin*, in whose library they now remain.

Dublin, Jan. 16th,
1749.

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DECLARATION

SETTING FORTH,

How, and by what MEANS,

T H E

LAWs and STATUTES of *England*,

From TIME to TIME,

Came to be of *Force* in *Ireland*.

By Sir RICHARD BOLTON.

KING HENRY the second, in the 18th year of his reign, conquered the Kingdom of *Ireland* from the *Irish*, and placed there many of the *British*, and granted the City of *Dublin* to the Men of *Bristol* to inhabit, and returned into *England*; and afterwards in the 23d year of his reign by Parliament constituted his Son *John*, who afterwards was King of *England*, to be King of *Ireland*, and granted to him and his heirs the whole Kingdom;
and

and in the 26th. year of his reign sent him into *Ireland*, with a great train of young Gallants, he being then but 12 years of age, who used the *Irish* with such disdain and derision, that the *Irish* took occasion thereat to revolt from him and his Government; so as shortly after he returned back again into *England* without doing any remarkable thing: But notwithstanding his creation to be King, yet during the life of King *Hen.* 2d. and *Rich.* 1st. he was stiled in his several charters by the name of *Dominus Hiberniæ*,—Lord of *Ireland*,—and not King, until after the death of King *Rich.* 1st. as appears by several charters by him granted to the City of *Dublin*, in the first whereof, being without date, he is stiled, *Johannes, filius Domini Regis Angliæ, et Dominus Hiberniæ.*—i. e. John, son of our Lord the King of *England*, and Lord of *Ireland*. And in the second, bearing date at *London* the 15th of *May* Anno. 3d. *Rich.* the 1st. he is stiled. *Johannes, Dominus Hiberniæ, Comes Mortonæ.*—i. e. John, Lord of *Ireland*, and Earl of *Morton*. And in a third charter granted to the City of *Dublin*, bearing date at *Upton* the 7th. day of *February*, in the 2d. year of his reign, he is stiled,

“ *Johannis, Dei Gratia, Rex Angliæ, Dominus Hiberniæ,*
 “ *Dux Normandiæ, et Aquitaniæ, et Comes Andegaviæ.*—
 i. e. John, by the Grace of God, King of *England*, Lord of *Ireland*, Duke of *Normandy* and *Aquitain*, and Earl of *Anjou*.

And afterwards in the 12th year of his reign he came again into *Ireland*, and brought with him many learned persons in the Law, and other Officers, and Ministers of all sorts, and established the form of Civil Government to be according to the Laws of *England*, as appears in the first book of Institutes of the Lord *Cooke*, fol. 141; and in the Lord *Cooke's* 7th Report, fol. 22 in *Calvin's Case*, extracted cut of the Patent Roll of 11th *Hen.* 3d. Membrane, 3. the words are these,

“ Rex

“ Rex, &c. baronibus, militi-
 “ bus, et omnibus libere tenen-
 “ ribus, Salutem. Satis, ut cre-
 “ dimus, vestra audivit discre-
 “ tio, quod, quando, bonæ me-
 “ moriæ, Johannes, quondam
 “ Rex Angliæ, pater noster, ve-
 “ nit in Hiberniam, ipse duxit
 “ secum viros discretos, et in
 “ lege peritos, quorum commu-
 “ ni Consilio, et ad instantiam
 “ *Hibernensium*, statuit et præ-
 “ cepit leges *Anglicanas* in *Hi-*
 “ *bernia*, ita quod leges easdem,
 “ in Scripturas redactas reliquit
 “ sub Sigillo suo ad Scaccarium
 “ *Dublin*.”

The King, &c. To the Barons,
 Knights, and all his Freehold-
 ers, greeting. Your Wisdoms,
 as we believe, have sufficiently
 been informed, that when *John*,
 formerly King of *England*, our
 Father, of happy memory, came
 into *Ireland*, he brought with
 him discreet Men, skilled in the
 Laws, by whose concurrent ad-
 vice, at the request of the *Irish*,
 he ordained and commanded
 the Laws of *England* to be ob-
 served in *Ireland*, and left the
 said Laws, reduced into writing,
 under his Seal in the Exchequer
 at *Dublin*.

And in another record in 13. *Edw.* cited by the Lord *Cooke*
 in the first book of his Institutes, fol. 141, it followeth in
 these words, viz.

“ Una et eadem Lex esse debet, tam in Regno *Angliæ*,
 “ quam *Hibernia*.”—One and the same Law ought to be
 observed both in *England* and *Ireland*.

And in 2d. of *Rich.* 3d. fol. 12:

Terra *Hiberniæ* habet Parlia-
 mentum, prout in *Anglia*, et per
 idem Parliamentum facit leges,
 et mutat leges, et illi de eadem
 terra non obligantur per Statu-
 tum in *Anglia*, quia hii non ha-
 bent milites Parliamenti.

The land of *Ireland* has a Par-
 liament, as in *England*, and by
 the same Parliament makes laws,
 and changes laws; and the Peo-
 ple of that land are not bound
 by a Statute made in *England*,
 because they have not therein
 Knights of Parliament.

And likewise in Rot. patent, 30. *Hen.* 3. it is recorded,

“ Rex, &c. quia pro Communi
 “ utilitate terræ *Hiberniæ*, et
 “ pro unitate terrarum, provi-
 sum

The King, &c. Because for the
 common interest of the land of
Ireland, and for the unity of
 both

" sum est, quod omnes leges
 " et Consuetudines, quæ in
 " Regno *Angliæ* tenentur, in
 " *Hiberniâ* teneantur, et eadem
 " terra iisdem legibus subja-
 " ceat, et per easdem rega-
 " tur, sicut *Johannes* Rex,
 " cum illic esset, Statuit, et
 " firmiter Mandavit; ideo vo-
 " lumus, quod omnia brevia de
 " communi jure, quæ currunt
 " in *Angliâ*, similiter currant in
 " *Hiberniâ*, sub novo Sigillo
 " Regis. In cujus &c. teste
 " me ipso apud *Woodstocke*."

both Countries, it is provided,
 that all laws and customs, which
 are observed in the Kingdom
 of *England*, should be observed
 in *Ireland*, and that the said
 land should be subject to, and
 be governed by the same laws,
 as *K. John*, when he was there,
 ordained, and firmly command-
 ed; therefore we will, that
 all writs at common Law which
 run in *England*, should in like
 manner run in *Ireland* under
 the King's new seal. In testi-
 mony whereof &c. Witness
 my self at *Woodstock*.

So as now the common Laws of *England* became the proper
 Laws of *Ireland*; and because they have Parliaments holden
 there, whereat they have made divers particular Laws con-
 cerning that Dominion, as it appears in 2d. *Hen.* 6. fol. 8.
 and 20 *Eliz.* Dier fol. 360, and by the resolution of *Cal-*
vin's case, *Cooke*, li. 7. fol. 23. it appears, that *Ireland* is
 governed by laws and customs separate and divers from the
 laws of *England*; which proveth, that it is a distinct Domi-
 nion, separate from the Kingdom of *England*; and although
 the ordinance of King *John* for the establishment of the laws
 of *England* in the Kingdom of *Ireland*, be several, yet it is
 manifest, that the common Law of *England* was only put in
 execution in those parts of *Ireland*, which were reduced and
 divided into Counties, and not in the *Irish* Countries or
 Territories, which were not reduced into Counties or Shire
 Grounds until the time of Queen *Mary*, and Queen *Eliza-*
beth. For King *John* made but 12 Counties, all which
 were in *Leinster* and *Munster*, viz. in *Leinster*, the Coun-
 ties of *Dublin*, *Meath*, *Uriel*, now called *Lowth*, *Kildare*,
Katherlagh, *Kilkenny*, and *Wexford*, which contain all the
 Province of *Leinster*, except these Territories following, viz.
 upper *Offory*, which was inhabited by the *Fitzpatricks*,
Leix, which was inhabited by the *Moore*s, *Offaly*, which
 was inhabited by the *O-Connors*, *Ely O-Carroll*, which was
 inhabited by the *O-Carrolls*, and some other Territories,
 which

which were inhabited by other Irish Septs; and in *Munster*, the Counties of *Waterford*, *Kork*, *Kerry*, *Limerick*, and *Tipperary*; which last mentioned 5 Counties do contain the whole Province of *Munster*. The Territories of *Leix*, *Offaly*, and *Ely O Carroll*, and some others, were reduced into Counties in the time of *Queen Mary*; and then the same were divided into two Counties, the one called the *Queen's County*, the other the *King's County*. So likewise the Province of *Connaught*, and *Ulster*, after the 11th. year of *Queen Elizabeth*, were divided into several Counties, according to a Statute made to that purpose in 11th. *Eliz.* Chap. 9. that is to say, *Connaught* was divided into 7 Counties, (viz) the County of *Galway*, the County of *Clare*, the County of *Roscommon*, the County of *Mayo*, the County of *Sligo*, the County of *Longford*, and the County of *Leitrim*. And in the like manner, the Province of *Ulster* was divided into nine Counties; namely, the County of *Downe*, the County of *Antrim*, the County of *Tyrone*, the County of *Ardmagh*, the County of *Monaghan*, the County of *Cavan*, the County of *Fermanagh*, the County of *Donegal*, and the County of *Londonderry*; so as now, all impediments being so removed, that the laws of *England*, and the King's Writ may have free passage through all the parts of *Ireland*, it is to be considered in the first place, upon how many parts the laws of *England* do consist, and how from time to time by several degrees they have been made of force in the Kingdom of *Ireland*.

These laws of *England* consist of three parts, first, of the general customs of the kingdom of *England*, which have been used beyond the memory of man, and accepted and approved by Prince and People, and are those, which are called the common laws of *England*. The second sort are particular and local customs, used in some particular Manors, Territories, Cities, and Baronies, and Towns, grounded upon some reasonable causes, and used in times beyond the memory of Man; and of these Mr. *Littleton* saith that,

Consuetudo ex certâ et rationabili causâ usitata privat communem legem.

Custom, grounded upon certain and reasonable causes, takes away the common law.

The

The third sort are Statute Laws, made in Parliament by the King, the Lords spiritual and temporal, and the Commons, which are the representative body of the Commonwealth: And of this sort, some are general laws, extending to all parts of the kingdom, and some are particular, extending only to particular places or persons. And of the general laws, some are introductory and positive, and some are declaratory, declaring the common law in some doubtful and ambiguous point, and some are mutatory, to alter and repeal some former laws in part or in the whole. But the Common Laws are general customs, and the particular customs were only of force in *England* in the time of King *John*; for all the statute laws now of force in *England* have been made since that time, viz. in the reign of *Hen. 3.* and in the reigns of other succeeding Kings. So as the laws established by King *John* in *Ireland*, in the twelfth year of his reign, were only these general customs, which are now called the Common Laws. And the particular and local customs, which are limited to persons or places, which could not be transferred or applied by any general words to the Kingdom of *Ireland*, where the persons or places, whereunto these particular customs were limited and confined, are not to be found, and concerning the Statute Laws, which have been made since the time of King *John*, so many of them as concern particular persons, and particular places in *England*, cannot by any general confirmation or approbation become to be laws of Force in *Ireland*; where no such places or persons are to be found; but all such statutes as have been made since the time that King *John* established the laws of *England* in the kingdom of *Ireland*, which are only declaratory of the Common Laws, are of force in *Ireland*, without any other confirmation or approbation, but only the first establishment. And of this Sort are the statutes of *Magna Charta*, made in the 9th, year of *Hen. 3.* the statute made in 14th. of *Hen. 3.* called *Statutum Hiberniæ*, and the statute of 25th. of *Edw. 3.* called the *Statute de Proditionibus*, and many other statutes of the like kind. But such statutes as have been made in *England* since the 11th of King *John*, and are introductory and positive, making new laws, or any ways altering, adding unto, or diminishing the ancient Common Laws, have not been

been binding, or any ways of force in *Ireland*, until such time as they have been enacted, allowed, and approved of, by act of Parliament in *Ireland*; as may appear by the judgments of nine Parliaments holden there, (*viz.*) in 13th. of *Edw.* 2. in a Parliament in *Ireland*, the Statutes of *Merton* and *Marlebridge*, made in the time of *Hen.* 3. and the statutes of *Westminster* 1st, and of *Westminster* 2d, and the Statute of *Gloucester*, made in the time of *Edw.* 1. were confirmed and approved to be of force in *Ireland*, and all other statutes, which were of force in *England*, were then referred to be examined in the next Parliament, and so many of them, as should be then allowed, and published, to be accepted for laws in *Ireland*. And afterwards, in a Parliament holden in *Ireland* in 19th. of *Edw.* 2. it was enacted, that the statutes made in *England* should not be of force in the kingdom of *Ireland*, unless they were allowed and published in that kingdom by Parliament; and the like statute was made again in 29th. of *Hen.* 6. But these statutes are not to be found in these parliament rolls, nor any parliament rolls at that time, but the same are exemplified under the great Seal, and the exemplifications were remaining in the Treasury of the city of *Waterford*: And it is most certain, that not only these parliament rolls, but also many other rolls and records miscarried in those troublesome and distempered times, which have been in *Ireland*: For in all the times of *Edw.* 3. *Rich.* 2. *Hen.* 4. and *Hen.* 5. which is almost an hundred years, there is not any parliament roll to be found; and yet it is most certain, that divers Parliaments were holden in those times. Moreover in 28th of *Edw.* 1. 5th of *Edw.* 3. 14th of *Edw.* 3. 25th of *Edw.* 3. 34th. of *Edw.* 3. and 7th of *Rich.* 2. divers good laws were made in *England* by several Acts of Parliament against the extortions and oppressions of Purveyors; which laws were never received, nor put in execution in *Ireland*, until the 18th of *Hen.* 6. Chap. 1. that it was enacted, agreed, and established by Parliament in *Ireland*, that all statutes made against Purveyors within the realm of *England* should be holden and kept in all points, and put in execution in *Ireland*.

It also appeareth in the year book of 20th *Hen.* 6. fol. 8. that one *John Pilkington* brought a Scire facias against one A. to

A. to shew cause why Letters Patents, whereby the King had granted an Office in *Ireland* to the said *A.* should not be repealed, whereas the said *John Pilkington* had the same Office granted him by former Letters Patents granted by the same King, to occupy by himself or his deputy. Whereupon the said *A.* was warned and appeared, and said, ' That the land of *Ireland*, time beyond the memory of man, hath been a land separated, and severed from the realm of *England*, and ruled and governed by the customs and laws of the same land of *Ireland*. And that the Lords of the same land, which are of the King's Council, have used from time to time in the absence of the King to elect a Justice, which Justice so elected hath power to pardon and punish all Felonies, Trespasses, &c. and to assemble a Parliament; and by the advice of the Lords and Commonalty to make statutes; and he alledgeth further, that a Parliament was assembled, and that it was ordained by the said Parliament, that every Man who had any Office within the said land, before a certain day, and he puts the day in certain, shall occupy the said Office by himself, or otherwise that he shall forfeit his Office. And sheweth further, how the said *John Pilkington* occupied the said Office by a deputy, and that, insomuch as he came not in proper person to reside upon his Office before the day, that his Office was void, and that the King by his Letters Patents granted the said Office so become void to the said *A.* and prayed, that the said Letters Patents should be effectual, and not repealed.' And upon the plea the said *John Pilkington* demurred in Law. In the argument of which case, it was debated by the Judges, *Yelverton*, *Fortescue*, *Portington*, *Markham*, and *Ascough* whether the said prescription were good, or void in law; *Yelverton* and *Portington* held the prescription void; but *Fortescue*, *Markham*, and *Ascough* held the prescription good, and that the Letters Patents made to *A.* were good and effectual, and ought not to be repealed: and in the argument of this case, it was agreed by *Fortescue* and *Portington*, that if a tenth or fifteenth be granted by Parliament in *England*, that shall not bind them in *Ireland*; although the King send the same statute into *Ireland* under his great Seal: except they in *Ireland* will in their Parliament approve it; but if they will approve it, then it shall bind in *Ireland*. And *Portington* said,

said, that if a tenth be granted in the Parliament of *England*, that shall not bind in *Ireland*, because they have not any commandment by writ to come to our Parliament; and this was not denied by *Markham*, *Yelverton*, or *Ascough*. Upon this case these points following are to be observed, First, that the Lords of the Council of *Ireland* had then power, in the absence of the King, and vacancy of a Lieutenant or Deputy, to elect a Justice, and that is plainly proved by the preamble of the statutes of 33d. of *Hen. 8. Chap. 2. in Ireland*. The words are these; ‘ For as much as continually sithens the conquest of this realm of *Ireland*, it hath been used in this same realm of *Ireland*, that at every such time, as it hath chaunced the same realm to be destitute of a Lieutenant, Deputy, Justice, or other head Governour, by death, surrender, or departure out of the said realm, or otherwise, the Council of this realm of *Ireland*, for the time being, have used by the laws and usages of the same, to assemble themselves together to choose and elect a Justice, to be Ruler and Governour of this realm, till the King’s Highness had deputed and ordained a Lieutenant, Deputy, or other Governour for the same realm; which Justice, so being elected, was and hath been always by the ancient laws and customs of this said realm of *Ireland* authorised to do and exercise the said rounge of Deputy there, for the good rule and governance, and leading of the King’s subjects within the said realm of *Ireland*, and in ministration of Justice, with divers other authorities, preheminences, and jurisdictions there; which usage, election, and authority of the said Justice hath been many times ratified and confirmed by divers statutes in this Realm provided and made. But this order of election of a Justice is now by the said statute of 33d. of *Hen. 8.* altered; as by the said statute more at large may appear.’

The second point to be observed upon this said Case is, that the Lord Justice, for the time being, had power to summon a Parliament, and therein to enact laws, and statutes, without any commission from the King.

The third point to be observed upon the said Case is, that the statutes made in *England* do not bind in *Ireland*, unless the same be approved and allowed of in the Parliament of *Ireland*. But afterwards in the time of *Edw. 4.* a doubt was conceived, whether the statute made in *England* in 6

Rich. 2. Chap. 6. concerning Rape, ought to be of force in *Ireland*, without a confirmation thereof by Parliament: for the clearing of which ambiguity and doubt in *8 Edw. 4. Chap. 1.* in *Ireland*, it was enacted by authority of Parliament, that the said statute of *6 Rich. 2.* be adjudged and approved in force and strength; and that the statute may be of force in this land of *Ireland* from the 6th day of *March* then last past, and from thenceforth the said act, and all other statutes and acts made by the authority of Parliament within the realm of *England* be ratified and confirmed, and adjudged by the authority of the said Parliament, in their force and strength from the said 6th day of *March*. The cause of which doubt and ambiguity is not expressed in the said statute; but it may be collected, that the said statute was by some men conceived to be but a declaration and explanation of the true meaning of the statute of *Westminster 2. Chap. 34.* concerning Rape, which was formerly confirmed and approved by Act of Parliament in *13 Edw. 2.* The words of the statute are these as followeth, *viz.* If any man from henceforth ravish any woman, married lady, damsel, or other, with force, where she did not consent, neither before nor after, he shall have judgment of life and member. And likewise, where a man ravished a woman, married lady, damsel, or other with force, although she consent afterwards, he shall have judgment as aforesaid, if he be not attainted, and if no man will sue, the King shall have the suit; and for women carried away with the goods of their husbands the King shall have the suit for the goods taken away: and in case the wife wilfully forsake her husband, and go away, and continue with the adulterer, she shall be barred for ever of Action to demand her dower, that she ought to have of her husband's estate, if she be convicted thereupon. But the truth is, that the said statute of *Rich. 2.* is not only a declaration of the said statute of *Westminster 2. Chap. 34.* but an addition, that is, the wife shall by the statute of *Westminster 2.* lose her dower by consenting to the ravisher, and living with him in adultery; so the single woman by the statute of *6 Rich. 2.* shall forfeit her inheritance, if she consent to the ravisher; so as until the said statute of *8 Edw. 4.* the said statute of *6 Rich. 2.* was not wholly of force in *Ireland*; and that may appear by the words of the said statute of *8 Edw. 4.* For by the

words

words thereof the said statute of 6 *Rich. 2.* was to be of force from the 6th of *March* then last past, whereas, if the said statute of 6 *Rich. 2.* had been but a declaration or explanation of the statute of *Westminster 2. Chap. 34.* it would have been of force at all times since the making of the statute of *Westminster 2d.* which was in 13 *Edw. 1.* And although the statute of 8 *Edw. 4.* be general, that all other statutes and acts made by the authority of Parliament within the realm of *England* should be of force in *Ireland*, there be many statutes made in *England*, which concern particular Cities, and particular Persons, which are not of force in *Ireland* by the general words of that statute of 8 *Edw. 4.* For it were absurd to make such construction, that a statute made in *England* concerning the City of *London* should be in force in *Ireland* by any general words for it; so it must either be of force throughout the whole kingdom, or not at all; for it cannot be applied to any one particular city in *Ireland*, more than to another. But the true construction of the said statute is, to make all such statutes of force in *Ireland*, as are general laws throughout the kingdom of *England*, and not such as are limited or restrained to particular places, or particular uses and purposes, which may not aptly or fitly be applied to *Ireland*.

Likewise in the year book of 2 *Rich. 3.* fol. 11. divers merchants of the City of *Waterford*, in *Ireland*, shipped divers merchandizes of the Staple, intending to carry them to *Sluice* in *Flanders*, and not to *Calais*, contrary to a statute made in *England* in 2 *Hen. 6. Chap. 4.* whereby it is enacted, that the whole repair of wools, wool-fells, leather, whole tin, and shotten tin, and all other merchandizes belonging to the Staple, passing out of the realm of *England*, and the countries of *Wales* and *Ireland*, to be at *Calais* in *France*, upon pain of forfeiture of the very value of the merchandize, which shall be carried elsewhere, and that no licence from thenceforth be granted to the contrary, except for wool-fells and leather of *Northumberland*, and the Bishoprick of *Durham*; and he that espieth the same, and thereof giveth knowledge to the Treasurer of *England*, shall have a fourth part of the forfeiture so by him espied: and the said ship, against the will of the said merchants arrived at *Calais*, and there Sir *Thomas Thwaites* Knight seized upon the said ship, and after the said merchants petitioned to the

King and his council at *Westminster* by Bill to have restitution; and the said *Thwaites* alledged the said statute, and further shewed, that the said merchants made an indenture with the master of the ship to transport the said merchandize into *Flanders*, and not to *Calais*; and the merchants shewed a licence of *Edw. 3.* and a confirmation of *Edw. 4.* and another confirmation of *Rich. 3.* made to the commonalty and merchants of the said City, by the name of their Corporation, and to their heirs and successors, to carry and transport out of the land of *Ireland* merchandizes of the Staple whither soever they pleased: and upon that matter two questions were moved. First, if towns corporated in *Ireland*, and other inhabitants in *Ireland*, shall be bound by statutes made in *England*. And the second question was, if the King may give licence contrary to the statute, especially where it is ordained by the statute, that the finder shall have part of the forfeiture, and the King shall have the residue. And for the solution of these questions, all the Justices were assembled in the Exchequer Chamber. And as to the first question, it was said, that the land of *Ireland* in itself had a Parliament, and all other Courts as in *England*, and by the same Parliament doth make laws and change laws, and are not bound by the statutes of *England*, because they have not therein Knights of Parliament. But this is understood of lands and things in that land only to be affected; but the persons are the King's subjects, and as subjects are bound to any thing to be done out of *Ireland* against the statute, as the inhabitants of *Calais*, *Gascoigne*, *Guisnes*, were while they were subjects, and likewise shall be obedient to the Admiral of *England* of things done upon the sea; and likewise a Writ of Error of a judgment given in *Ireland* doth lie in the King's Bench in *England*. And for the second question, the King may give a licence, with a clause of *non obstante*. But in 1 *Hen. 7.* all the Justices being in the Exchequer Chamber, the said question was moved again between them of the City of *Waterford*, and Sir *Thomas Thwaites*, Treasurer of *Calais*, and then *Hussay*, Chief Justice, said, that the statutes made in *England* did bind them of *Ireland*. But afterwards 10 *Hen. 7. Chap. 22.* it was enacted in a Parliament in *Ireland*, that all statutes then lately made within the said realm of *England*, concerning or belonging to the common or publick weale of the same, from thenceforth

should

should be deemed good and effectual in the law, and over that accepted, used, and executed within the land of *Ireland* at all times requisite, according to the tenor and effect of the same; and over that by the authority aforesaid, that they, and every of them, be authorized, proved, and confirmed in the said land of *Ireland*.

By all which statutes made from time to time in *Ireland* it plainly appeareth, that all statutes made in *England* before 10 *Hen. 7.* concerning or belonging to the publick and Commonwealth of *England*, are made to be of force, and to become laws in *Ireland*. And likewise at the same Parliament, *Chap. 4.* it was ordained, enacted, and established, that no Parliament should after that time be holden in *Ireland*, but at such season, as the King's Lieutenant and Council there do first certify the King under the great Seal of that land the causes and considerations, and all such acts, as to them seemed should pass in the said Parliament, and such causes, considerations, and acts, affirmed by the King and his Council, to be good and expedient for that land, and his licence thereupon, as well in affirmation of the said causes and acts, as to summon the said Parliament under his great Seal of *England* had and obtained; that done a Parliament to be had and holden after the form and effect before rehearsed; and if any Parliament be holden in that land hereafter, contrary to the form and provision aforesaid, it be deemed void and of no effect in law.

And forasmuch, as since the making of the act of 10 *Hen. 7. Chap. 4.* commonly called *Poining's act*, divers and sundry ambiguities and doubts have been made upon the true meaning and understanding of the same; for the avoiding of which doubts and ambiguities, and for a full and plain declaration of the true meaning and understanding of the said act, in 3 and 4 *Philip and Mar. Chap. 4.* it was ordained, enacted, and established by authority of Parliament, that the said act, and every clause and article therein contained, should from the first day of *September* then last past, be expounded, and understood, and taken, as hereafter followeth (that is to say) that no Parliament be summoned or holden within the realm of *Ireland*, until such time as the Lieutenant, Lord Deputy, Lord Justice, Lords Justices, Chief Governor, or Governors or any of them, and the Counsaile of the said realm of *Ireland* for the time being,

shall certify the King and Queen's Majesty, or her heirs and successors under the great Seal of the realm of *Ireland*, the considerations, causes, and articles of such acts, provisions and ordinances, as by them shall be thought meet and necessary to be enacted here by Parliament; and shall have also received again their Majesties answers under the great Seal of *England*, declaring their pleasure either for passing of the said acts, provisions, and ordinances, in such form and tenor as they should be sent into *England*, or else for the change or alterations of them, or any part of the same; and it was further enacted by the authority aforesaid, that after such return made, and after licence and authority to summon a Parliament within the said realm of *Ireland*, granted under the great Seal of *England* unto the Lieutenant, or the Lord Deputy, or other Lord Justice, or Lords Justices, Governor, or Governors, shall and may summon and hold a Parliament within the realm of *Ireland* for passing and agreeing upon such acts, and no others, as shall be returned under the said great Seal of *England*: and forasmuch as many events and occasions may happen during the time of the Parliament, which shall be thought meet and necessary to be provided for, and yet at or before the time of summoning of the Parliament were not thought nor agreed upon; therefore, it was then further enacted and established by the authority of the said Parliament, that as well after every such authority, and licence sent unto the said realm of *Ireland*, as also at all times after the summons, and during the time of every Parliament to be hereafter holden within the realm of *Ireland*, according to the tenor and form of the said act, the Lieutenant, Lord Deputy, Lords Justices, Chief Governor or Governors, and Council of the said realm, for the time being, shall and may certify all such other causes, considerations, tenors, provisions, and ordinances, as they shall further then think good to be enacted and established at and in the said Parliament within the same realm, to the King and Queen's Majesty, her heirs and successors, under the great Seal of the said realm of *Ireland*, and such causes, considerations, tenors, provisions, and ordinances, or any of them, shall be thereupon certified and returned into the said realm, under the great Seal of *England*, and no others, shall or may pass, and be enacted in every such Parliament within the said realm of *Ireland*, in case the same considerations,

tions, causes, tenors, provisions, and ordinances, or any of them, shall be agreed and resolved upon by the three estates of the said Parliament; any thing contained in the said act, or in the aforesaid act made at *Drogheda*, commonly called *Poining's act*, to the contrary notwithstanding.

By these two last mentioned statutes, the manner of summoning a Parliament in *Ireland*, and the proceedings and passing of acts in the same, are much altered from that which was before 10 *Hen. 7.* For now, by these two statutes it is so provided, that no act can be so much as read in Parliament without the King's allowance by the advice of both his Councils of *England* and *Ireland*; and these acts have been held so sacred in *Ireland*, that in 11 *Eliz. Chap. 8.* it is enacted, that no Bill shall be certified into *England* for the repeal or suspending of the said statute of 10 *Hen. 7.* called *Poining's act*, before the said Bill be first agreed upon in a session of Parliament holden within the realm of *Ireland* by the more number of the Lords assembled in Parliament, and the greater number of the Commons House. And if there be any act passed, or to be passed thereupon, touching the repeal or suspending of the said statutes made in 10 *Hen. 7.* called *Poining's act*, the same to be utterly void and of no effect to all purposes and intents.

By this, which hath been already shewed, it is apparent, that none of the statutes made in *England* from the 12th year of King *John*, until 10 *Hen. 7.* (which were introductory or positive) have been received or put in execution, as laws, in the realm of *Ireland*, until the same were approved and enacted by several acts of Parliament in *Ireland*.

Now it followeth to take into consideration what acts of Parliament made in *England* since 10th of *Hen. 7.* are now in force in *Ireland*, and how the same came to be of force there. It is true, that since 10 *Hen. 7.* there have been many acts of Parliament made in *England* of great importance both for the government of the common-wealth, and the administration of justice between party and party, which are now of force in *Ireland*: but none of them were ever received as laws in *Ireland*, until the same were enacted by several Parliaments holden in *Ireland*, as, amongst many others, may appear by the particulars following. In 21 *Hen. 8. Chap. 7.* an act was made in *England*, that makes it fe-

lony in a servant that runneth away with the goods of his master or mistress; and this act was not received in *Ireland* until the same was enacted by a Parliament holden in *Ireland* in 33 *Hen. 8.* Sess. 1. Chap. 5. In 21 *Hen. 8.* Chap. 19. there was a law made in *England*, that all Lords might distrain upon the lands of them holden for their rents and services, and to make their avowries, not naming the tenant, but upon the lands: but this law was not received in *Ireland* until it was enacted there in 33 *Hen. 8.* Sess. 1. Chap. 7. An act was made in *England* in Anno 31 *Hen. 8.* Chap. 1. that joint tenants, and tenants in common, should be compelled to make partition; which act was not received in *Ireland* until it was enacted there in 33 *Hen. 8.* Sess. 1. Chap. 10. In 27 *Hen. 8.* Chap. 10. the statute of uses was made in *England*, for transferring of uses into possession; which statute was never received, nor of force in *Ireland*, till the same was enacted in *Ireland*, 10 *Car. 1.* Chap. 1. So likewise, 32 *Hen. 8.* Chap. 1. a statute was enacted in *England*, whereby it is directed, how lands and tenements may be disposed by will, and concerning wardships, and primer seizins; which statute was never received, nor of force in *Ireland*, until it was enacted by Parliament in *Ireland* in 10 *Car. 1.* Chap. 2. In Anno 1 *Eliz.* Chap. 5. there was an act made in *England* for the uniformity of the Common Prayer and Administration of the Sacraments; which act was not received in *Ireland*, until the same was confirmed and established by Parliament in Anno 2 *Eliz.* Chap. 2. In Anno 5 *Eliz.* Chap. 9. there was an act of Parliament made in *England* for the punishment of wilful perjury; which act was not of force in *Ireland* until the same was enacted by a Parliament in *Ireland* in 28 *Eliz.* Chap. 1. Another act was made in *England* in Anno 3 *Eliz.* Chap. 12. for the punishment of Witchcraft and Sorcery, and another act in the same year, Chap. 14. for the punishment of Forgery; which acts were not of force in *Ireland* until the same were enacted by Parliament there in 28 *Eliz.* Chap. 2. 3. In 28 *Hen. 8.* Chap. 15. there was an act made in *England* for the punishment of Piracy; which act was not of force in *Ireland* until the same was enacted in *Ireland* in 12th of *James.* Chap. 2. In 27th of *Eliz.* Chap. 4. an act was made in *England* against fraudulent conveyances, which act was not of force,

not

nor received in *Ireland*, until the same was enacted in *Ireland* 10 *Car.* 1. *Chap.* 3. besides many other acts made in the several reigns of *Hen.* 8. *Edward* 6. *Queen Elizabeth*, *King James*, and the King's Majesty who now is. And it is not to be found in any record in *Ireland*, that ever any Act of Parliament made in *England* since the time of *King John*, was by the judgment of any Court received for law, or put in execution in the realm of *Ireland*, before such time as the same was confirmed and established by Act of Parliament in *Ireland*.

But it may be objected, that although such Acts of Parliament as have been enacted in *England*, wherein no mention hath been made of *Ireland*, do not bind, and are not of force in *Ireland*; yet all such acts, as have been, or shall be made in *England*, wherein *Ireland* is particularly named, are, and shall be of force there, without any confirmation or approbation by Act of Parliament in *Ireland*; as for example. The statute of 14th *Hen.* 3. intituled *Statutum Hiberniæ*—The Statute for *Ireland*, concerning Co-heirs, the Ordinance made 17th *Edw.* 1. intituled *Ordinatio pro Statu Hiberniæ*.—An Ordinance for the State of *Ireland*, and the opinion of *Hussy*, chief Justice in 1 *Hen.* 7. fol. 3. which is, that Statutes made in *England* shall bind them of *Ireland*, and likewise an opinion in *Calvin's* case, that albeit *Ireland* be a distinct dominion from *England*, yet the title thereof being by conquest, the same by judgment of law, might by express words be bound by the Parliament of *England*; and albeit there be no reservation, wherein *King John's* Charter of establishing the laws of *England* in *Ireland*, yet by judgment of law a writ of error did lye in the King's Bench in *England* of an erroneous judgment in the King's-Bench in *Ireland*.

To these objections it may be answered; first, for the statute of 14th of *Hen.* 3. intituled *Statutum Hiberniæ*,—the Statute for *Ireland*, the same was not an introductory law, but an explanation of the ancient Common Law, as may appear by the very words thereof. The words are these,

" Cum Milites de partibus Hi-
" berniæ, nuper ad nos acce-
" dentes, nobis ostenderunt,
" quod cum hæreditas devolu-
" tasset

Whereas certain Knights from
Ireland, lately approaching our
presence, have represented un-
to us, that when an inheritance
has

" tasset, videlicet, inter sorores In terrâ nostrâ *Hiberniæ*,
 " iusticiarii de iisdem partibus
 " Itinerantes incerti sunt, utrum
 " post natæ sorores tenere debeant de primô genitâ sorore,
 " et ei facere homagium, aut
 " non; et quia prædicti milites
 " petierunt qualiter in Regno
 " nostro *Angliæ* in casu consimili hætenus usiatum fuit,
 " sic ad Instantiam eandem vobis significavimus, quod in
 " Regno nostro *Angliæ* talis est
 " lex et consuetudo in hoc casu, quod si quis tenuerit de
 " nobis in capite, et habuerit
 " filias hæredes, ipso parte defuncto, Antecessores nostri
 " habuerant, Nos semper habuimus, et cepimus, homagium
 " de omnibus huiusmodi filiabus, et singulæ earundem tenuerunt de nobis in capite in
 " hoc casu; et si infra ætatem fuerint, nos habebimus custodiam earundem et maritagium singularum: Si autem
 " de alio Domino tenuerint, et ipsæ sorores infra ætatem fuerint, earum Dominus habeat
 " custodiam et maritagium earundem ac singularum, & primo genita suum faciet homagium Domino pro se et omnibus
 " sororibus suis; et aliæ sorores, cum ad ætatem venerint, facient servitia Domino feodi per manum primo genitæ, nec possent primo genitæ
 " ratione vel occasione a post natis sororibus homagium vel custodiam, vel aliam
 " quam aliam subjectionem, exigere vel habere; quia, cui

" omnes

has devolved upon sisters in *Ireland*, the Justices Itinerant of those parts are uncertain, whether the younger sisters ought to hold of the elder sisters, and do homage to her or not. And because the said Knights have desired to know, how the usage of *England* hath hitherto been in the like case, we thus at their instance signify unto you, that in our kingdom of *England*, the law and custom is such in that case, that if any person should hold of us *in capite*, and should have daughters for his heirs, their father being dead, our Ancestors have had, and we also have received and taken homage of all such daughters, and each of them in such case doth hold of us *in capite*; and if they be under age, we shall have the ward and marriage of them and each of them. But if they should hold of any other Lord, and the sisters should be within age, their Lord shall have the ward and marriage of them and each of them, and the eldest shall do her homage to the Lord for herself, and all her sisters, and the other sisters, when they arrive at full age, shall do their services to the Lord of the fee by the hands of the eldest; nor can the eldest sisters by any reason or occasion exact or receive homage, or wardship, or any other subjection, from the younger sisters; because to whomever all are, as it were, one heir of one inheritance, if the eldest may receive the homage of the other sisters, or demand

mand

" omnes sunt quasi unus hæres
 " de unâ hæreditate, si primo
 " genita posset habere homagi-
 " um aliarum sororum, vel cus-
 " todiam petere, tunc esset illa
 " hæreditas divisa, ita quod
 " primo genita soror esset simul
 " et semel de una hæreditate
 " Domina et hæres, hæres au-
 " tem suæ partis, et Domina
 " sororum suarum, quod qui-
 " dem in isto casu fieri not po-
 " terit, cum ipsa primo genita
 " nihil posset petere plus quam
 " aliæ sorores, nisi capitale mes-
 " suagium ratione. Preterea si
 " primo genita hujusmodi homa-
 " gium a post natis sororibus
 " suis acciperet, esset quasi do-
 " mina earum, et habere posset
 " custodiam earum, et filiorum
 " suorum, et hoc esset quasi
 " committere agnum lupo ad
 " devorandum. Et ideo vobis
 " mandamus, quod prædictas
 " consuetudines, quas in Reg-
 " no nostro *Angliæ* habemus
 " in hoc casu, ut prædictum est,
 " in terrâ nostrâ *Hiberniæ* pro-
 " clamari faciatis & observari."

mand the wardship, then that
 inheritance would be divided,
 so that the elder sister would
 be lady and heiress of one and
 the same inheritance, that is,
 heiress of her own purparty, and
 lady of her sisters, which can-
 not be in this case, when the
 eldest sister can demand nothing
 more than the other sisters, ex-
 cept the capital messuage. Be-
 sides, if the eldest sister should
 receive such homage from her
 younger sisters, she would be
 as it were, lady of them, and
 might have the wardship of them
 and their children, and that
 would be, as it were, to com-
 mit the Lamb to the Wolf to
 be devoured. And therefore
 we command you, that you
 cause to be proclaimed and ob-
 served in our land of *Ireland* the
 said customs, which in such
 case, as aforesaid, are in use in,
England.

So likewise the statute of *Magna Charta*, which was only
 a declaration of the Common Law, was of force in *Ireland*,
 before any statute made in *Ireland* for confirmation of the
 same; and that may well appear by the statute of 13th of
Edw. 2. before remembered, whereby the statutes of *Mor-*
ton and *Marlebridge 1st. Westm. 2.* and the statute of *Glou-*
cester were confirmed in *Ireland*, wherein *Magna Charta*
 is not mentioned; which doubtless would have been, if the
 same had been needful; but being a declaration of the Com-
 mon Law, it was not thought needful to be confirmed, as
 the other statutes therein mentioned; which were in the
 most part of them introductive and positive; and concern-
 ing the Ordinance, intituled *Ordinatio pro Statu Hiberniæ*,
 the

the same was never received in *Ireland*; for that Ordinance, amongst other things, doth ordain, that the Justice of *Ireland*, nor no other Minister of the King in that land, as long as they are in their offices, should purchase any lands or tenements within the said land, within the limits of their jurisdiction, without the King's special Licence; and if any do to the contrary, that that which he shall purchase, shall be forfeited to the King, and his heirs; and it is manifest, that many Justices of *Ireland*, and other officers, have in all ages since the making of the said Ordinance, acquired and purchased, without the King's Licence, great possessions in all parts of *Ireland*; and yet it doth not appear by any office, inquisitions, or other records, that ever the King hath been intitled to any such lands, which doubtless would have been, if the said Ordinance had been of any force within the Kingdom of *Ireland*. Secondly, the said Ordinance is no Act of Parliament, but only an Ordinance made by the King, by the assent of his Council; and therefore could not have the force of law. For if a King come to a Christian kingdom by conquest, seeing he hath *potestatem visæ et necis*, he may at his pleasure alter and change the laws of that kingdom; but until he doth make an alteration of those laws, the antient laws of the kingdom remain; but if a Christian King should conquer the kingdom of an Infidel, and bring them under subjection, there *ipso facto* the laws of the Infidel are abrogated; for that they be not only against Christianity, but against the law of God and Nature, contained in the decalogue; and in that case, until certain laws be established amongst them, the King by himself, and such Judges as he shall appoint, shall judge them, and their causes, according to natural equity, in such sort as Kings in antient times did within their kingdoms, before any certain laws were given. But if a King have a kingdom by title of descent, there, seeing that by the laws of that kingdom he doth inherit the kingdom, he cannot change those laws of himself, without consent of Parliament. Also, if a King have a Christian kingdom by conquest, as King *Hen. 2.* had *Ireland*, after King *John* had given unto them, being under his obedience, the laws of *England* for the government of that kingdom, which are not only regal, but also politick; no succeeding King could alter the same without a Parliament of that kingdom, as it appears in *Calvin's* case,

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Cooke L. 7. fol. 17. And as to the opinion of *Hussy*, chief Justice, in 1st of *Hen. 7. fol. 3.* that the statutes made in *England* shall bind them of *Ireland*, this opinion, as it is put by him generally, cannot be law; for *Brooke*, in abridging that case in title Parliament, *Sec. 19.* saith, that that opinion was denied to be law, the last term before; and added further, *tamen nota*, that *Ireland* is a realm of itself, and hath a Parliament in itself, implying thereby, that *Ireland* could not be bound but by a Parliament of *Ireland*. And according to that is the opinion of the Judges in 20th *Hen. 6. fol. 8.* in *John Pilkington's* case, and in 2d. *Rich. 3. fol. 11.* in the Merchants of *Waterford's* case, before remembered; and likewise contrary to the opinion of *Hussy* are the judgments of eight several Parliaments in *Ireland* before the Statute of 10th of *Hen. 7. viz. 13th of Edw. 2. 19th of Edw. 2. 18th of Hen. 6. 29th of Hen. 6. 32. of Hen. 6. 37th of Hen. 6. and 8th of Edw. 4.* And since the statute 10th of *Hen. 7.* of five Parliaments; viz. 28th of *Hen. 8. 33d of Hen. 8. 28th of Eliz. 11th of Jam. and 10. Car.* besides the statute of 10th *Hen. 7.* itself: and it doth not appear by any record to be found in *Ireland*, or in any of the year books in *England*, since the time of King *John*, which is above four hundred years, that any judgment was ever given or grounded upon any statute made in *England*, which is a mere positive law, and not a declaration of the Common Law, before the same was received, and allowed by Act of Parliament in *Ireland*; and, although the words of *Hussy* be general, without restriction, yet I conceive his meaning was not so; but that by the words (the Statutes of *England*) he intended such statutes as concerned the matter then in question, which were the statutes concerning the Staple of *Calais*, in which statute *Ireland* is particularly named: and yet by the opinion of the Judges in 2d *Rich. 3.* that statute was not of force in *Ireland*; and as to the opinion in *Calvin's* case, *Cooke*, lib. 7. fol. 17. viz. that albeit *Ireland* were a distinct Dominion, yet the title thereof being by conquest, the same by judgment of law might by express words be bound by the Parliament of *England*; for proof of which opinion it is added, that albeit no reservation were in King *John's* Charter, yet, by judgment of law, a writ of error lyeth in the King's Bench in *England* of an erroneous judgment in the King's Bench in *Ireland*. For clearing of this point, and answering

ing of this objection, besides the said book cases in 20 *Hen.* 6. and 2 *Edw.* 3. we shall find divers judgments of Parliament in *Ireland* to the contrary since the statute 10 *Hen.* 7. viz. in 24 *Hen.* 8. Chap. 12, &c. An act was made in *England* concerning appeals to *Rome*, which Act doth by express words extend to all his Majesty's Dominions; yet the same was not received, nor of force in *Ireland*, until it was enacted by Act of Parliament there in 28 *Hen.* 8. Chap. 6. Also the statute of 28 *Hen.* 8. Chap. 8. made in *England* concerning the first fruits of the Clergy extended by express words to any of the King's Dominions; yet the same was not received, or of force in *Ireland*, until it was enacted there by Parliament in 28 *Hen.* 8. Chap. 8. Likewise the act of faculties made in *England* 25 *Hen.* 8. Chap. 21. extended by express words to all the King's Dominions; yet the same was not received, or of force in *Ireland*, until it was enacted by Parliament in *Ireland*, 28 *Hen.* 8. Chap. 19.

And now, in as much as the laws of *England* and *Ireland* do not admit of any inconveniencies; it is to be considered, what inconveniencies may follow, if the Kingdom of *Ireland* should be bound by any statute made in *England*, and not confirmed by Act of Parliament in *Ireland*. First, the Parliament of *Ireland* should be nugatory and superfluous, if by naming *Ireland* in any statute made in *England*, *Ireland* should be bound; then all these Parliaments which have been holden in *Ireland* since 12 King *John*, for the space of about 400 years, should have been needless and superfluous, which is not to be imagined. Secondly, if the statutes made in *England*, by expressing *Ireland*, should be binding, then by the same reason, a statute made in *England* may repeal, alter, or change, all the laws and statutes, which hitherto have been made and approved, or hereafter shall be made or approved in *Ireland*, which were a thing marvelous inconvenient for that Kingdom: and Mr. *Littleton* saith, that the laws will rather suffer a particular mischief, than a general inconveniency; and it is most certain that *Argumentum ab inconvenienti est in lege fortissimum*.—An argument drawn from any inconvenience is of the greatest force in Law. Thirdly, if the Parliaments of *England* and *Ireland* be holden at one and the same time, as they now are, and the one Parliament shall make a law, and the other likewise

likewise should make another law direct contrary to the other in the same point, it may be demanded, which of these laws shall be obeyed in *Ireland*? Fourthly, if the statutes made in *Ireland* by those who best know the state and condition of the Kingdom of *Ireland*, and of the people there, shall not be repealed, or any ways altered, or changed, or when laws be imposed by the Parliament of *England*, which cannot possibly know the state and condition of *Ireland*, so well as those, which are inhabiting, and have been born and lived many years in that Kingdom, it would be very inconvenient for them; no man's estate could be made secure or permanent by the Laws of *Ireland*, and what dangerous consequence might follow thereupon by the discontent of that nation, I leave to the consideration of those that are in authority, and best know how to prevent such future inconvenience; and considering that the statutes of *Ireland* are made with such cautions, and in such form, as is prescribed by *Poyning's* act in 10 *Hen.* 7. and in 3 and 4 *Philip* and *Mary*, viz. First, that all the acts must be considered of the chief Governor, Governors, and Council of *Ireland*, and presented under the great Seal of *Ireland* to the King's most excellent Majesty, and by his Majesty and Council of *England*, approved and altered, and so transmitted into *Ireland* under the great Seal of *England*, and then, and not before, to be propounded in the Parliament of *Ireland*, and there to pass the votes of both Houses, and thereupon the royal Assent to be given by the chief Governor, or Governors of *Ireland*, who must have a special Commission under the great Seal of *England*, to that purpose; I cannot conceive why the Laws and Statutes made in *Ireland* should be controuled, or any ways altered, by any other Authority, than by the Parliament of that Kingdom; — *Nil tam conveniens naturali æquitati unumquemque dissolvi eo ligamine, quo ligatus est.* — Nothing is so agreeable to natural equity, as that every one should be unbound by the same authority, by which he was bound. Fifthly, the Kingdoms of *England* and *Ireland* are as well political as regal, and the laws thereof grounded upon parity of reason, and legal policy; and surely it standeth not with the rule of reason and politic Government, that the Liberties, Laws, and Estates, of those of the Kingdom of *Ireland*, and of their posterities, should be

be bound by any Laws or Statutes made in *England*, whereunto they are not any ways made privy nor parties: for by the rules of reason and politic Government, to all Statute Laws, whereby the whole Commonwealth is to be governed, the members thereof are to give assent, and a law made by the King, and Peers, or by the Peers and Commons, or by the King and Commons, without the Peers; or by the Peers and Commons, without the King, is of no force, and so it appeareth in 10 *Hen.* 7. Chap. 23. in *Ireland*, when it was declared, that a Parliament there holden before Sir *Robert Preston*, Knt. Viscount of *Gormanstown*, then Lord Deputy, should be deemed void to all intents and purposes for divers causes therein expressed, whereof one was, because there was no general summons of that Parliament to all the Shires, but only to four; and by the year books in 11 *Hen.* 7. fol. 27. and 33 *Hen.* 6. fol. 17. it appeareth, that to make a law by act of Parliament there must be the assent of the King, and also of the Lords and Commons; and therefore in 28 *Hen.* 8. Chap. 26. when *Wales* was by act of Parliament united and incorporated to be a member and party of the realm of *England*, and to be inheritable to the laws of *England*, it was thought reasonable, and so enacted in the same Parliament, that every County should send one Knight to the Parliament, and every Borough, one Burgeses, to have votes in Parliament, as Knights and Burgeses of other Counties and Burroughs had; and in 34 *Hen.* 8. Chap. 13. the like statute was made for the County Palatine of *Chester*, to send Knights and Burgeses to the Parliament, as the County Palatine of *Lancaster*, or any other County doth. Sixthly, it is inconsistent with the dignity, power, and jurisdiction of the high Court of Parliament, that the same should be subordinate to the Parliament of another kingdom; for the Court of Parliament is, *Curia altissima et suprema*.—The highest and most supreme Court, and by the laws both of *England* and *Ireland* hath a double capacity of jurisdiction, the one ordinary of judicature, to judge according to the laws already in force; the other supreme and absolute, and legislative, either to repeal former laws, or to alter or change the law in some particular point, or to make new laws for the better government of the Commonwealth; and therefore, being *suprema et altissima*
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Curia cannot be subordinate nor subject to the controlling of any other power or jurisdiction. For although all the People of *England*, *Scotland*, and *Ireland*, are subjected to the King's Majesty, yet the same is, *respectu diversorum*—in divers respects. And each kingdom hath its own several Parliaments, and several and distinct Laws: and it doth not thereby follow, that the Parliament of one of those Kingdoms should be subordinate or subject to the controul of another; for by that reason, the Parliament of *Scotland* should be subordinate to the Parliament of *England*, which hitherto never was; neither did the *French*, when the greatest part of *France* in the time of *H.n.* 6. was subject to the King of *England*, acknowledge to be subordinate to the Parliament of *England*. And lastly, although writs of error to reverse judgments given in the King's-Bench in *Ireland* may be prosecuted in the King's-Bench in *England*, it doth not therefore follow, that the Parliament of *England* may repeal, alter, or change any laws or statutes of *Ireland*, or give new laws unto that kingdom: for if a writ of error be brought in *England* to reverse a judgment given in the King's-Bench of *Ireland*, the Judges of *England* are not to alter or change the laws of *Ireland*, or to give judgment according to the laws in *England* in such case, but according to the laws in *Ireland*, where the first judgment was given. For by a writ of error they are to examine whether the judgment given in *Ireland* be erroneous, and contrary to the laws of *Ireland*, and not whether it be contrary to the laws of *England*. For example; by the laws of *Ireland* if the husband be attainted of felony, the wife by such attainder shall be barred to demand any dower of the freehold and inheritance of her husband; and this was the ancient Common Law of *England*; but by a statute made in *England* in the time of *Edw.* 6. in such a case of attainder, the wife is not to be barred to demand her dower. Put the case then, that a woman bringeth a writ of dower in the court of Common Pleas in *Ireland*, to be endowed of the freehold and inheritance of her husband, the tenant pleads in bar of her dower, that during the coverture her husband was seized, and attainted of felony, and pleads the record of the attainder in certain, she demurs upon this plea, and judgment is given against the demandant, & by the law of *Ireland*

land it ought to be; the demandant prosecutes a writ of error in the King's-Bench of *Ireland* to reverse the said judgment, and thereupon judgment is affirmed; the demandant in the writ of dower, not herewith content, but conceiving, that by the said statute made in *England* in the time of *Edw. 6.* the wife in such case of attainder of felony is not debarred to demand her dower, prosecuteth a writ of error in the King's Bench of *England*; in this case the Judges of the King's Bench of *England* ought to judge according to the laws of *Ireland*, where the first judgment was given, which is, that the wife ought to be barred of her dower, by the attainder of her husband, and not to judge according to the said statute of *Edw. 6.* So likewise before the statute of 10th *Car. 1st. Sess. 2. Chap. 7.* in *Ireland*, if a Disseisor had died seized of lands, and no continual claim had been made, the entry of the Disseeisee was tolled, and he was put to recover his right by a real action, and not by way of entry; and by a statute made in *England* in 32d of *Hen. 8. Chap. 33.* it was enacted, that no such Disseisin, and dying seized, should toll the entry of the Disseeisee, or his heirs, except such Disseisor had continued in the peaceable possession by the space of five years next after the Disseisin by him committed. Now put the case, that before the said statute of 10th *Car. 1. 7.* and after the said statute of 32d of *Hen. 8. Chap. 33.* a Disseisor had gained the possession of any lands by Disseisin, and within the space of five years next after such Disseisin had died seized, no entry or continual claim being made by the Disseeisee or his heirs, and the Disseeisee had entered into the said land, and the heir of the Disseisor bring an action against him *quare clausum fregit*, and upon not guilty pleaded in the King's Bench of *Ireland* the Jury finds the special matter, and there upon not guilty pleaded, judgment is given for the Plaintiff, as it ought to be, as the law was then in *Ireland*, and thereupon the Defendant pursueth a writ of error in the King's Bench in *England*: in this case the Judges of *England* ought to affirm the judgment given in *Ireland* according to the laws of *Ireland*, and not to reverse the same according to the said statute of 32d of *Hen. 8.* in *England*. Another objection more probable than any of those formerly rehearsed may be made upon a branch of the statute of 25th of *Hen. 8. Chap. 20.*
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made in *England*, concerning the consecrating and electing Archbishops and Bishops, the words of which branch are as followeth, *viz.*——“ Be it enacted, ordained, and establish-
 “ ed, that at every avoydance of any Archbishoprick, or
 “ Bishoprick within this realm, or in any other the King’s
 “ Dominions, the King, our Sovereign Lord, his heirs and
 “ successors, may grant to the Prior and Convent, or Dean
 “ and Chapter of the Cathedral Churches, or Monasteries,
 “ where the See of such Archbishopricks or Bishopricks
 “ shall happen to be void, a licence under the greal Seal of
 “ *England*, as of old time hath been accustomed, to pro-
 “ ceed to election of an Archbishop or Bishop of the See
 “ so being void, with a letter missive, containing the name
 “ of the person which they shall elect and chuse; by vir-
 “ tue of which licence and letter missive so directed, they
 “ shall with all speed and celerity in due form elect and
 “ chuse the said person named in the said letter missive, to
 “ the dignity and office of the Archbishoprick or Bishoprick,
 “ so being void, and none other; and if they do defer or
 “ delay their election above twelve days next after such li-
 “ cence and letter missive to them delivered, that then for
 “ every such default, the King’s highness, his heirs and suc-
 “ cessors, at their liberty and pleasure, shall nominate and
 “ present by their Letters Patents under the great Seal such
 “ person to the said office and dignity, so being void, as
 “ they shall think able and convenient for the same; and
 “ that every such nomination and presentment to be made
 “ by the King’s Highness, his heirs, and successors, if it be
 “ to the office and dignity of a Bishop, shall be made to
 “ the Archbishop and Metropolitan of the province, where
 “ the See of the same Bishop is void, and if it be void, then
 “ to be made to such Archbishop and Metropolitan within
 “ this realm, or in any of the King’s Dominions, as shall
 “ please the King’s Highness, his heirs, and successors; and
 “ if any such nomination or presentment shall happen to
 “ be made for default of such election to the dignity or of-
 “ fice of any Archbishoprick; then the King’s Highness,
 “ his heirs and successors, by his Letters Patent under his
 “ great Seal, shall nominate and present such person, as they
 “ will dispose to have the said office and dignity of Arch-
 “ bishop, being void, to any such Archbishop, and two
 “ such Bishops, or else to four such Bishops in this realm,

“ or in any of the King’s Dominions, as shall be assigned
 “ by our sovereign Lord, his heirs, and successors, &c.”
 which act was never confirmed or approved by any Act of
 Parliament in *Ireland*; and yet *Fitzherbert* in his *Natura
 Brev.* fol. 169. saith, that if a Bishoprick of *Ireland* be
 void, that they do sue to the King in *England* to go to elec-
 tion of another, and after the election made, they must have
 his royal assent to this election upon certificate made thereof
 to the King, and upon that a writ shall be directed out of
 the Chancery of *England* to the Chief Justice of *Ireland*, or
 to his Lieutenant, rehearsing all this matter, commanding
 him to take the fealty of the Bishop, and to restore to him
 the temporalities; but now, saith he, the course is in *Ire-
 land*, to make such Writs there in the name of the King,
 but the King doth name the Bishop there, and also in *Eng-
 land*, and then the Chapter shall chuse him that the King
 hath named to them, and thereupon the writs are made of
 course.

Thereupon it may be objected, that a statute made in
England is binding in *Ireland*, without any approbation of
 the Parliament there, as in this particular case it was, as
 Justice *Fitzherbert* affirmeth. But hereunto it is answered,
 that this statute consists of several particulars, First, a de-
 claration of the King’s right and prerogative by the antient
 Common Law, and the restitution thereof to the Crown.
 Secondly, an advice how, and in what manner, the King
 may use his prerogative, as appears by that branch of the
 statute before specified; for the words are not compulsive,
 that the King shall grant a *Conge de’ eslier*, but the words
 are, that the King, his heirs and successors, may grant a
 Writ of *Conge de’ eslier*, as of old time hath been accustomed,
 with a *Letter Missive*, containing the name of the person to
 be elected. And in default of such election, the King, his
 heirs, and successors, at their liberty and pleasure, shall no-
 minate and present by their Letters Patents under the great
 Seal a person to the said office and dignity, so being void,
 as they shall think able and convenient for the same. Ano-
 ther part of the said statute is penal to the Archbishops, and
 Bishops, and likewise to the Deans and Chapters, if they
 do not proceed to the election and consecration according
 to that branch of this statute, which is above rehearsed;
 and therefore, those branches of the said statute, as are de-
 claratory

claratory of the Common Law, are, and ought to be of force in *Ireland*, without any approbation thereof by the Parliament there: and the writ of *Conge d' eslier* is not grounded upon this statute of 25 *Hen.* 8. but was long before, as appears by the Register, fol. 294, and 295, and by this statute itself. And that this statute of 25 *Hen.* 8. is a declaration of the Common Law, is proved, and excellently declared, by the statute of 25 *Edw.* 3. *De provisoribus*, and also, by another statute therein recited made at *Carlisle* in 25 *Edw.* 1. For by the Common Law the King is founder and patron of all Archbishopricks, and Bishopricks, and of common right to him only it belongeth to have the nomination and placing of such persons in and to the same, as he shall think fit; and this likewise appears by the statute of 1 *Edw.* 6. *Chap.* 2. made in *England*, whereby it is declared, that the election of Archbishops, and Bishops, by the Deans and Chapters, within the realms of *England* and *Ireland*, be as well to the long delay, as to the great costs and charges of such persons, as the King giveth any Archbishopricks or Bishopricks unto; and that the said elections be indeed no elections, but only by writ of *Conge d' eslier*, have colours, shadows, or pretences of elections, serving nevertheless to no purpose, and seem only derogatory and prejudicial to the King's prerogative royal, to whom only appertaineth the collation and gift of all Bishopricks within his Highness's realms of *England* and *Ireland*; and the like declaration was made in *Ireland* by act of Parliament in *Anno* 2 *Eliz.* *Chap.* 4. so as upon the whole matter it was in the King's election after the statute 25 *Hen.* 8. and until the statute 1 *Edw.* 6. in *England*, and 2 *Eliz.* in *Ireland*, to confer Archbishopricks and Bishopricks, either according to the ancient form of *Conge d' eslier*, or by his Letters Patents, according to the said statutes of 25 *Edw.* 3. 1 *E.* 6. and 2 *Eliz.* or according to his ancient right or prerogative by the Common Law: and the statute of 25 *Hen.* 8. is no impediment thereunto; for in 14th *Eliz.* *Chap.* 7. it is enacted, that the Lord Chancellor, Lord Treasurer, and the Judges in *Craftino animarum*, shall nominate a Sheriff for every county, notwithstanding such statute in 5. 6. *Edw.* *Dier.* fol. 214. was ruled by the opinion of *Cateline*, Chief Justice of the King's Bench, *Dier*, Chief Justice of the Common Pleas, and the rest of the Judges, that although no Sheriff were

named by the Judges, according to the statute 14 *Eliz.* the Queen by her prerogative may make a Sheriff, without any such election; and that the same statute was not any impediment thereunto. Hereby it appeareth, that King *Henry* the 8th by his ancient right, and royal prerogative, notwithstanding the statute of the 25th, might confer Archbishopricks and Bishopricks by his Letters Patents, without any *Conge d' eslier*, as is mentioned in the said statute; for it was at his election to use the form prescribed by the statute, which is not compulsory, but by way of advice, or to use his ancient prerogative; and for a more clear proof thereof see 33 *Hen.* 8. *Dier.* fol. 156. and *Cooke* lib. 11. fol. 64, in *Dr. Foster's* case, where many good cases are put, and many good books are cited upon this ground.

Upon serious consideration of all that hath been said formerly, three considerable questions may be moved, *viz.*—First, whether upon the conquest made by King *Hen.* 2d. immediately, *ipso facto*, the kingdom of *Ireland* was inseparably annexed to *England*, or was subordinate to the jurisdiction of that Parliament or not? Admitting that it were, then 2dly, whether by the said grant of *Hen.* 2. made to his son *John*, the same be not separated and disjointed from the kingdom of *England*, and thereby the regal power which King *Henry* 2. had by the conquest were not totally transferred to King *John*. 3dly, In what capacity King *John* established the laws of *England* in *Ireland*, (*viz.*) whether as he was King of *England*, or as Lord of *Ireland*.

The first of these questions may receive this answer, *viz.* that *Ireland*, being a christian kingdom, the laws thereof did continue, until such time as the conqueror should establish some other laws, or some other form of government therein; which was not done until the 7th year of King *John*; which was twenty eight years after the conquest; during all which time, the ancient laws of *Ireland* continuing, it is manifest, that the laws of *England* had not any footing in *Ireland*; and therefore the Kingdom of *Ireland*, during that time, could not be subordinate to the Kingdom of *England*, neither could the Parliament of *England* extend their jurisdiction in *Ireland*; all which may be plainly proved out of *Calvin's* case in the 7th part of the Lord *Cooke's* reports; and it doth not follow, that a kingdom gained by conquest, is thereby either annexed or subordinate to the kingdom

kingdom conquering, but remaineth still a distinct kingdom, as it was before such conquest; for if the laws were otherwise, then the Kingdom of *England* by the conquest of *William* the conqueror should be annexed and subordinate to the Dukedom of *Normandy*; which would have been held strange doctrine in *England* in those days.

The second question may receive this answer, *viz.* that although the kingdom of *Ireland* had by the conquest (*ipso facto*) been united and annexed to *England*, as in truth it was not, yet the same union is not set so inseparable, but that it might be, and was disjoined by the said grant of King *Hen. 2.* wherein we are to consider not only the bare grant itself, but also the circumstances and solemnities of it. For first, it was made at a great and solemn assembly of a Parliament held at *Oxford*, as appeareth by all the histories of that time. Secondly, King *John* was thereby constituted King of *Ireland*. Thirdly, this whole kingdom was granted unto him without any reservation. Fourthly, that this grant was made by licence of the Pope, which was by him confirmed, being a matter in those times held to be greatly material. And fifthly, it was enjoyed by King *John*, as a separate and distinct kingdom, severed and distinguished apart from the Kingdom of *England* all the time of his father, and likewise of his eldest brother, King *Richard 1.* by the space of 33 years, during which time he was absolute Lord of *Ireland*, made divers Grants and Charters yet extant in *Ireland*, wherein he stiled himself *Dominus Hiberniæ*, in others, *Dominus Hiberniæ, et Comes Mortoniæ*; by which Charters, as well the City of *Dublin*, as many other cities and corporations in *Ireland*, enjoy many privileges and franchises to this day; and that, after the said grant, neither King *Henry 2d.* nor after him King *Richard* the 1st. never stiled themselves either Kings or Lords of *Ireland*; so as by that grant it appeareth, that King *Henry 2.* was divested of all regal power in *Ireland*; and that the same was really vested in his son *John*: and yet it is true, that where a King hath a Kingdom by descent, the established government whereof is not only regal, but also politick, in that case, the subject hath such interest in the regal protection inherent in the royal person of the King, that the King cannot of himself transfer the same to any other so absolutely, as utterly to divest himself thereof; no more than the subject can by his

own and transfer his allegiance to any other ; for by the same law there is a natural obligation between the King and the subjects, inherent in both, viz. in the King, protection of his subjects, and in the subjects, fidelity and subjection to the King. But, when a King hath a kingdom by conquest, he may therein establish what form of government he pleaseth, so as the same be not repugnant to the Law of Nature, and the laws of God ; and until he have so done, it standeth with reason, that he may transfer that regal dominion acquired by conquest, which is not yet made politick, to another ; especially, when it is done by authority and assent of Parliament, as in the case of King *Henry 2.* to his son *John*, it was done ; and so the law was then conceived : for by that donation King *John* enjoyed *Ireland*, as a kingdom separate and distinct from the Kingdom of *England*, until the crown of *England* descended upon him ; and that the same is yet a kingdom separate and distinct from the Kingdom of *England*, it is resolved clearly in *Calvin's* case in the 7th report of *Cooke* ; where many notable cases adjudged in *England* in all ages since the *Norman* conquest proving the same, are remembered. Here also may be remembered the resignation of King *John* of the crown of *England* to the *Pope*, which, being done of himself, was void ; also, the resignation of King *Edward 2.* to his son *Edward 3.* and the resignation of *Richard 2.* to *Henry 4.* both done in Parliament, and therefore held good ; but the manner how these resignations were obtained is not fit to be related, but rather to be buried in the grave of oblivion, than to be remembered. If King *John*, in the life-time of his father, or of his brother King *Rich. 1.* had established the government of *Ireland*, as he did afterwards, to be according to the laws of *England*, then, without all question, the statutes made in *England* could not be binding in *Ireland* ; the Kingdom of *Ireland* being not then any ways dependent upon the Kingdom of *England*.

Now we come to the third question ; in what capacity King *John* established the government of *Ireland* to be according to the laws of *England*, he being then King of *England* by descent, as next heir to his brother King *Rich. 1.* who died without issue, and Lord of *Ireland*, with all regal power thereunto incident by the donation of his Father, and not by descent ; and surely, it must of necessity be, by

that

that regal power, which he had by the donation of his father, and not by any power descended to him from his brother. For his brother had no regal power in *Ireland*; and then, that which his brother never had, could not descend to him; and so consequently it must of necessity be, that he established the laws in *Ireland*, as lord of *Ireland*, by that regal power which he had by his father's donation, whereby he made them the proper laws of *Ireland*, and not otherwise: and how *Ireland* should hereby become subordinate to the jurisdiction of the Parliament of *England*, more than the state of *Rome* was to the state of *Athens* for the laws of the twelve tables, *it cannot be* conceived. For if King *John* had ordained, that *Ireland* should have been governed according to the laws of *Scotland*, (as he might have done) it were a strange construction to say, that *Ireland* should be thereby subordinate unto, or any ways dependant upon, the Kingdom of *Scotland*, or subject to the jurisdiction of the Parliament of that kingdom. So as now it is evident, that *Ireland* is a free and distinct kingdom of itself, the government whereof, is as political, and regal, as the Kingdom of *England* is, and the King's Majesty, is supreme head of the body politick of *Ireland*, and that the Parliament of *England* hath no more jurisdiction in *Ireland*, than it hath in *Scotland*.

Also, it will be necessary for our better satisfaction to know, by what law it is, that the statutes made in *England* should be binding and of force in *Ireland*, without the approbation of the Parliament there; and whether by the Common Law, or by any Statute Law, or by what other law. If by the Common Law, it must have these two qualities; the first of them is, that it must have reason for its foundation and beginning. The second is, that it must have time for its continuance; for Mr. *Littleton* in the epilogue of his book saith, *Lex plus laudabitur quando ratione probatur*.—That law shall be better authorized, when it has its foundation in reason. St. *Germain* saith in his first book, *Chap. 4.* that the law of *England* is grounded upon six principal grounds.

1. First, upon the law of reason.
2. Second, upon the law of God.
3. Upon divers general customs of the realm.
4. Upon divers principles, that be called maxims.
5. Upon

5. Upon divers particular customs.

6. And Sixthly, upon divers statutes made in Parliament by the King and Common Council of the realm.

By which it appeareth, that the Common Law must be consonant and agreeable to the law of reason, and not unreasonable; for as well the Common Law, being the general custom of the realm, as every particular custom, must be *ex certa rationabili causa usitata*.—Must be established upon some certain and reasonable cause, as Mr. *Littleton* saith; and surely there cannot any reasonable cause be shewed, why the lives, liberties, estates, and fortunes of the Prelacy, Nobility, Gentry, and Commons of *Ireland*, should be bound by such laws, as another kingdom or commonwealth shall impose upon them, they being neither party nor privy to the making of them. If the chief city of a kingdom should prescribe to have power to make laws and ordinances for the government of all other cities in the kingdom, such prescription would be adjudged unreasonable and void. *A fortiori*, for one kingdom to make laws to bind another is more unreasonable. In 2 *Hen. 4. fol. 24.* a custom was alledged, that the Commoner shall not put his cattle to graze upon the Common, until the Lord of the Manor first enter and put his cattle upon the land; and this was judged an unreasonable custom, and void in law; for by that means it should be in the power of the Lord to defraud the Commoner of his Common. So likewise, if the Parliament of *England* may make laws to be of force and binding in *Ireland*, the subject of *Ireland* may at the pleasure of the Parliament of *England* be disinherited of all the lands, honours, franchises, and liberties, whereof he is inheritable, as well by the laws and statutes of *Ireland*, as by the statute of *Magna Charta Chap. 29.* made in *England*, and of force in *Ireland*. So likewise it appeareth by St. *Germain* in his 1st. book *Chap. 7.* that the general customs of the Kingdom of *England*, because they are neither against the law of God, nor against the law of reason, have attained by long usage the force of laws, and are properly called the Common Law of *England*. Many other authorities may be urged to this purpose, viz. the first part of the *Institutes fol. 68, 81, 110, 141.* And *Littleton Sect. 212.* and divers others, as well ancient as modern; so as that ground,

viz. reason, which indeed is the principal foundation of all laws, is wanting in that case.

The second ground is the law of God, and that is always most consonant to the law of reason, and altogether unchangeable; so as it is most certain there cannot any thing be found by the law of God to prove, that the statutes of *England* should be binding laws in *Ireland*.

The third ground is the general customs of the realms, which will fail altogether in this case; for from the 12th year of King *John*, when the Government of *Ireland* was established according to the model of *England*, until the 1st *Hen.* 7. which was almost 240 years, this doctrine was not dreamed of, until *Hussy*, then Chief Justice, upon a sudden motion, without any argument or deliberation, freely bestowed upon *Ireland* all the statutes of *England*; but all the rest of the Judges of the kingdom in the last term before, upon solemn debate, by serious consideration, were of another opinion, and about nine or ten years afterwards the Lord *Cooke* in *Calvin's Case* before remembred broached the like doctrine, but was not so liberal as *Hussy*; for he doth limit it only to such statutes, wherein *Ireland* is particularly named, and for his own proof alledgeth no other authority, but only the writ of error to reverse erroneous judgments in *Ireland*; which is neither *ad idem*, nor upon the same reason: for the writ of error to reverse erroneous judgments in *Ireland* hath had a long continual usage to warrant the same, whereby it hath obtained the force of a law; the same being neither against the law of reason, nor the law of God, nor against any maxim of the Common Law, nor any statute law: especially because the judges of *England*, upon the writ of error, must judge according to the laws of *Ireland*, and not according to any other laws. And also it hath two rules of law to support the same, *viz.* *A. Comuni observantia non est recedendum*,—There is no departing from common custom,—and also, *Consuetudo est optima legum interpretres*,—Custom is the best interpreter of laws. But to warrant the opinion of *Hussy* in *Hen.* 7. or the opinion of the Lord *Cooke* in *Calvin's Case*, there is neither law of reason, nor usage, nor any other ground of law. Also the Lord *Cooke* in the second part of his *Institutes fol.* 2. will not allow the statutes of *Magna Charta*, which he in the whole course of the exposition thereof holdeth to be but an explanation

explanation of the ancient Common Law, to be of force in *Ireland*, until the statute of the 10th *Hen.* 7; but although he was exceeding well learned, and a great honour and light to the laws of *England*, yet was he in this particular exceedingly mistaken; for King *John* established the Common Law of *England* to be used in *Ireland*, and the statute of *Magna Charta*, being nothing else but the Common Law; then, if this were not established in *Ireland*, nothing was established but a mere shadow, and nothing in substance; and then was *Ireland* almost two hundred and fifty years destitute of the benefit of the laws of *England*, which is a very great oversight and mistaking. For it is apparent in many hundreds of records yet extant in *Ireland*, that all the Common Laws of *England*, sithence the time of King *John* in all ages, before the 10th *Hen.* 7. were put in practice in *Ireland*, and likewise by the statute of 8th *Edw.* 4. made in *Ireland*, all the statutes before that time made in *England*, which might happily be applied to *Ireland*, were enacted to be of force in *Ireland*; so as we may conceive, that the Lord *Cooke* in *Calvin's* case hath mistaken the law, as well as he hath done in the said case of *Magna Charta*; and then there is no full proof of any such general custom in the case in question; but the contrary is clearly proved by the judgment of the several Parliaments before remembred, and of the Judges in 20th *Hen.* 6. and 2d *Rich.* 3. before recited; and now, as reason hath failed upon the two former grounds, so hath reason and custom, or usage also failed in this third ground.

The fourth ground is certain principles or maxims, whereof there's not any to be found in the books of the Common Law to this purpose.

The fifth ground is particular customs, which be not any way pertinent to the matter in question.

The sixth and last ground is Statute Laws; and most certain it is, that there is not any statute extant, either in *England* or *Ireland*, whereby it is enacted, that any statute made in *England* should be of force in *Ireland*, before the same were approved, and enacted in the Parliament of *Ireland*; but there be many statutes in *Ireland* proving the contrary, whereof some are before remembred in this declaration.

And

And now, forasmuch as it cannot be denied, that *Ireland* is a kingdom distinct of itself, and so declared by Act of Parliament in 33 *Hen.* 8. Chap. 1. the government whereof being established according to the model of *England*, which was, and is, not only regal, but also politick; so as by that establishment *Ireland* became a body politick of itself, as *England* was then, consisting of the King's Majesty, as supreme head, and of the Peers and Commons, as members of the same, in such sorts that the Peers and Commons of *England* are not, nor cannot be any part or member of this body politic of *Ireland*, no more than the Peers or Commons of *Ireland* are or can be members of the body politick of *England*; therefore it cannot stand either in law or common reason, that the one body politick should be subordinate or subject to the controul of the other; for then the King's Majesty, which is the head of the one, and also the head of the other, should be both superior and inferior to himself in his royal and politick capacity within itself, which were altogether repugnant. And although *Ireland* doth acknowledge to *England* the precedency and seniority in politick government, yet it must not be forgot chiefly to acknowledge superiority, allegiance and subjection only to the King's sacred Majesty, as next and immediately under God, the Father of the Commonwealth, and supreme head of the politick body thereof; whom God preserve long to govern the same in peace and prosperity, to God's glory, his own honour, and the welfare of all his good and faithful subjects committed to his charge, and let all good subjects not only with their mouths, but also with their hearts, say, *Amen. Amen.*

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Serjeant *Mayart's* Answer

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DECLARATION

SETTING FORTH,

How, and by what MEANS,

T H E

LAWS and STATUTES of *England*,

From TIME to TIME,

Came to be of *Force in Ireland*.

W R I T T E N

By Sir RICHARD BOLTON.

I N a Sessions of Parliament held at *Dublin* the 6th of *April*, 1644, a book in writing was brought into the House of Lords, and there read, intituled a "Declaration how, and by what means, the Laws and Statutes of *England*, from time to time, came to be of force in *Ireland*;" which being once read in the House, and the question upon that

that dispute stated in that book by the Lord Chancellor, by word only to be, whether the Parliament in *England* could by an Act of Parliament there bind the goods and estates, lands, persons or lives, of the subjects of *Ireland*; it was there ordered, that the said book should be sent down to the House of Commons, by them to be perused, where it yet remains. Within a few days after the sending thereof, the Lords sent again to the House of Commons to know, what they had done, or resolved on, concerning that book? To which it was answered by them, that they thought fit it should be well considered of, and therefore had appointed their clerk to make out copies thereof, that the members of that House being of the long robe, might have them; and they desired that copies might be likewise made for the Judges by the clerk of the Lords House, and that after there might be a meeting betwixt the Judges and a committee of the House to consider of the book; since which time there hath been no proceedings thereupon, only copies thereof were given to the Judges, and to some of the members of the Commons House.

To give therefore some preparations to the considerations, it will not be amiss to take a short view of that discourse, which tends wholly to prove, that '*Ireland* never was, nor can be bound by any statute made in *England*, before the same be confirmed by Act of Parliament in *Ireland*.' And before we begin with the discourse itself, it may not be altogether impertinent (considering the question is of as great concernment, as ever any was in that kingdom, and was implicitly resolved of late by his Majesty, the Lords and Commons of *England*, before any difference between them, by an act made in *England* to bind and dispose of the lands in *Ireland*, that an act made in *England* by the Parliament there concerning *Ireland*, doth bind *Ireland*) to ask, why it should be made a question without his Majesty's consent and approbation? And whether this doth not somewhat reflect upon his Majesty, the Lords and Commons there? As if they had done that, which they know not whether they had power to do or no, or did justly in doing it: But to leave the answer to that question to the author of that discourse, let us examine the thing itself.

The author of this book (as we may plainly collect out of it, though he doth not so call them) amongst other things

of his discourse, doth lay down two principal grounds, whereupon a great strength of his building consists, which we will first examine, because the answering of them will reach far into the whole discourse, and to his arguments and reasons therein: and these two grounds we must gather together out of divers parts of his discourse; for both these, and the proofs of other his positions, are so scattered in many places, before he hath done with them, that unless they be collected together, it will be troublesome to the reader well to observe them, or for any body to give them a full answer without much perplexity.

The first of his grounds in the beginning of his discourse is, that King *Hen. 2.* in the 18th year of his reign conquered the Kingdom of *Ireland*, and placed there many *British*, and returned into *England*: that afterwards in the 23d year of his reign, by Parliament he constituted his son *John*, (who was afterwards King of *England*,) to be King of *Ireland*, and granted to him and his heirs the whole kingdom. And afterwards, towards the end of his book, he saith, that in the grant of King *Hen. 2.* we are to consider not only the bare grant, but the circumstances and solemnity of it. As first, that it was made in a great and solemn assembly of a Parliament at *Oxford*, as appears by all the chronicles of that time. 2dly, King *John* was thereby constituted King of *Ireland*. 3dly, That the whole kingdom was absolutely granted to him without any reservation, &c. and that it was enjoyed by King *John* as a separate and distinct kingdom, severed and distinguished apart from the Kingdom of *England*, during the time of his father, and of his elder brother *Rich. 1.* by the space of 33 years; during which time, as absolute Lord of *Ireland*, he made divers grants yet extant in *Ireland*; and that *Hen. 2.* by his grant was divested of all royal power in *Ireland*, and that the same was really vested in King *John*.

This being his 1st. ground, upon which part of the strength of his argument depends, surely it had need be well laid. But how proves he the same? He saith only, that it appears by all the histories of that time, and cites only *Hammer's History of Ireland*, p. 165.

Certainly histories written by *Monks*, or other men, who understand not the laws, nor, it may be, never had so much as a sight of the Records, Patents, or Grants of things

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PART II.

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granted

granted or done, whereof they write; or, if they had, yet understood little of them, or what passed by them, they having little or no knowledge in the laws, are very weak authorities to ground a matter of so great importance upon as this is, and which would not be evidence of itself alone sufficient to recover an acre of land, that should be demanded upon such a title. But the author neither cites any of the writers of those times, or since, but *Hanmer*, or what they say; nor shews us any Act of Parliament, or Patent of such a Grant made to King *John*, or tells us where we may find any such, or any other record, or copy of any, which may induce us to think it probable, that the whole Kingdom of *Ireland* was absolutely granted to King *John*, without any reservation, or that it was a separate and distinct kingdom, severed apart from the Kingdom of *England*, or that *Hen. 2.* by his Grant to King *John*, had divested himself of all his royal power therein; and therefore for the better satisfaction of them that desire it, let us summarily view the antient and modern histories, which write of this business, and what they say.

(a) Hist. of Dr. *Hanmer* saith. (a) that he finds in the Chronicles of
 Ir. P. 165. *England*, that Anno 1177, in a Parliament held at *Oxford*,
Hen. 2. created his son *John*, King of *Ireland*; that in
 Anno 1185 he dubbed him Knight, and set him in a readi-
 ness for *Ireland*; that the same year he obtained of Pope
Urban 3d a licence to crown which he would of his sons
 King of *Ireland*; that the said Pope sent two Legates from
Rome to crown *John* King of *Ireland*; but *Hen. 2.* delayed
 it, so that it was not effected; that in the space of eight
 months that Earl *John* stayed in *Ireland* (not King *John*)
 he builded three castles, &c. and King *Hen. 2.* hearing of
 the courses that were held by these green heads, he called
 them all home, and committed the absolute charge and com-
 mand of *Ireland* to Sir *John de Courcey* whom he appointed
 Lord Lieutenant of *Ireland*. So that all *Hanmer's* testimony
 concerning the making of *John* King of *Ireland*, is, that
 he findeth it in the Chronicles of *England*, that *Hen. 2d.*
 created *John* King; but not a word that the whole king-
 dom was granted to him without any reservation, or that
 it was separated from *England*, or that he was so much as
 called King, and that after that creation, he had licence
 from the Pope to crown which of his sons he would: and
 therefore

therefore it seems he had not resolved upon his son *John*, and that he would not suffer his son *John* to be crowned, which, if he had intended that he should have been absolute King, he would certainly have done; that after he had been there he called him home, and gave the whole command to Sir *John de Courcey*. These are certain marks, that the sovereignty and power was in *Hen. 2.* and not in his son, but only that he gave him some title of honour, or, if you will, the title of King, or some other power, which was a kind of kingly power, and so esteemed amongst the people, and power to grant the land of *Ireland*; for that before he was called *John Earl of Moreton*; but never gave him such absolute power, that he should exclude himself either from granting lands, or appointing governors there, as we shall see by his actions done there afterwards. And with this in a manner agrees *Speed (b)*, that King *Hen.* delayed the Co-^(b) *Hist. H.* ^{2.}ronation of his son *John* at such time as two Cardinals offered to celebrate the solemnity, and that his stile in his Seal of *Ireland* (though *Hoveden* saith that his father made him *Regem*—King) was only *Sigillum Johannis, filii Regis Angliæ, Domini Hiberniæ*.——The Seal of *John*, son of the King of *England*, Lord of *Ireland*.

Neither do some of our late writers make any mention at all of the making of *John* King, so little, as it seems, was that credited by them, and they, who write of it, make no special relation of any Grant made by King *Henry* to *John*, or what power was given to him, but only in a few words, that he gave him the Kingdom of *Ireland*, which, saith *Campian (c)*, returned home to the Crown, *John* being af-^(c) *Hist. Ir.* ^{2.}terwards King of *England*. ^{p. 72.}

What *Hanmer* saith is to be observed, that in 1185 King *John* landed at *Waterford*, being then 12 years of age; that in 1177 *Hen. 2.* created him King of *Ireland*; by which computation *John* was created King, being about four years old, and it was about eight years after before he went first into *Ireland*; yet neither in all this time, nor after, do we find, that King *John* had any Protector, which infant Kings ever have, or any Officers belonging to a King, as Chancellor, Treasurer, or any other great Officer, or any other ensigns of Royal Power. And we find, that his Father all his life time, before *John* came into *Ireland*, and also after,

constituted the chief Governors of *Ireland*, as *Courcey*, *Lacy*, &c. and disposed of the great affairs of that kingdom as he pleased, and also gave the lands of *Ireland* himself alone, in his own name, after he had granted *Ireland* to his son *John*, and created tenures to himself, and his heirs, of some of those lands so granted by him, and of others to him, and his son *John*, and their heirs; as we shall see by a Patent granted by him to *Nicholas la Perich*, which we shall hereafter at large recite; which he could not have done, if he had divested himself of all his power in *Ireland*; which is of itself an argument sufficient to prove, that he had still the chief and supreme power over it, notwithstanding his said Grant; and therefore, there is no probability, that King *John* had the absolute dominion of *Ireland* in his father's life-time.

Giraldus Cambrensis, who lived in the time of King *Hen. 2.* and King *John*, and who was there in *Ireland* with him, and a careful relater of the actions of *Ireland*, makes no special mention of this Grant made to King *John*; but only, that *Hen. 2.* gave him the dominion of *Ireland*, but in what manner, or with what power, or that it should be separate from the Crown of *England*, he speaks not a word; which surely he would not have neglected to have done, even for the honour of his Lord and Master, if any such power or dominion had been granted him, and it being a matter of so great moment. But he saith the contrary; for in his epistle dedicatory of his history of *Ireland* to King *John*, he saith,

“ Ita et hoc adjicimus, quatenus in memoriam expugnationis hujus *Hiberniæ* per Anglos factæ (quia crebra Dominorum per vices rerum varias fieri mutatio solet, et ad sanguine remotos, vel etiam prorsus extraneos, transcurso temporum hæreditas plerumque devolvi videtur) in Annuo auri, vel animalium, vel etiam arborum tributo, firmiter statuto, quasi perpetuo Chirographo, et indissolubili

We also add hereunto, that for preserving in memory this conquest of *Ireland* made by *Englishmen* (because by the frequent vicissitude of affairs there often happens a change of Lords, and in course of time the inheritance often devolveth on such as are furthest removed in blood or even on those who are wholly foreign there: so) that therefore there be a yearly tribute in gold, or cattle, or even in timber, firmly established, as it were by an

" dissolubili vinculo, Regnum
 " *Hiberniæ* Coronæ subiectum
 " omni palam tempore fiat."

an everlasting instrument, and
 indissoluble tie, that it may be
 known to all the world, that the
 Kingdom of *Ireland* is subject to
 the Crown of *England*.

He would have an annual tribute laid upon *Ireland*, that in
 all times it might be known, that the Kingdom of *Ireland*
 is subject to the Crown of *England*.

I find no other antient Writers that make any special
 mention of this gift, only *Roger Hoveden*, from whom, it
 is probable, our late writers take so much as they make
 mention of concerning this matter. He saith, (d) *Anno* <sup>(d) Ann. fab.
Hen. 2.</sup>
 1177, *Henricus Rex venit Oxendford, et in generali Con-*
cilio ibidem celebrato constituit Johannem filium suum Regem
in Hiberniâ.—In the Year 1177, King *Henry* came to
Oxford, and in a general Council constituted his son *John*
 King in *Ireland*.—and a few lines after,

" Deditque Dominus Rex *Hu-*
 " *goni de Lascey* in *Hiberniâ* to-
 " tam *Midiam*, cum pertinen-
 " tiis, pro servitio 100 Militum,
 " tenendam de ipso, et *Johanne*
 " filio suo, et chartam suam in-
 " de ei fecit. Deditque ibidem
 " *Roberto filio Stephani*, et *Mi-*
 " *loni de Cogham*, Regnum de
 " *Cork*, pro servitio 60 militum,
 " tenendum de ipso et *Johanne*
 " filio suo, exceptâ Civitate
 " *Cork*, cum uno Cantredo, quæ
 " Dominus Rex sibi, et hære-
 " dibus suis, retinuit. Deditque
 " ibidem *Hereberto filio Here-*
 " *berti*, &c. Regnum de *Lime-*
 " *rick*, pro servitio 60 Militum,
 " tenendum de ipso et *Johanne*
 " filio suo, exceptâ Civitate de
 " *Limerick*, cum uno Cantredo,
 " quæ Dominus Rex sibi & hæ-
 " redibus suis retinuit."

The King there gave to *Hugh*
de Lascey all *Meath* in *Ireland*
 with the appurtenances, for the
 service of an hundred Knights,
 to hold of himself and his son
John, and thereof he granted
 him his Charter. He also there
 gave to *Robert Fitz-Stephen* and
Milo de Cogham the Kingdom
 of *Cork*, for the service of 60
 Knights, to hold of himself and
 his son *John*; except the City
 of *Cork*, with one Cantred,
 which the King retained to him-
 self and his heirs. He also gave
 to *Herebert Fitz-Herebert*, &c.
 the Kingdom of *Limerick*, for
 the service of 60 Knights, to
 hold of himself and his son
John, except the City of *Lime-*
rick, with one Cantred, which
 he retained to himself, and his
 heirs.

D 3

And

And then he shews how he gave the custody of *Wexford*, *Waterford*, and *Dublin* to certain Men, and appointed certain lands and services for their maintenance. By which it plainly appears, if you will believe this man, that though King *Henry* had made his son King in *Ireland*, yet he gave him not the absolute kingly power over *Ireland*: for he himself only, without his Son, made the Grants to the fore-named persons, and appointed the custody of *Wexford*, &c. to others. And in his gifts his reserving the services as well to himself, as to his son, is merely void; because, before the Grant made to King *John*, it will not be denied, but that the title and right to the Kingdom of *Ireland* was wholly in King *Henry*: and in Grants, where there is a reservation, the reservation (*e*) must be to him, from whom the land moveth, and not to a stranger. It therefore necessarily follows, that the reservation was good only to *Henry* and his heirs, and void as to *John*; and so the land of *Ireland* remained still annexed to the Crown of *England*. Besides, in these Grants he excepted the City of *Cork*, with one Cantred, and the City of *Limerick* with another; which he retained (saith *Hoveden*) to himself and his heirs; which makes it most plain, that he never intended, that the whole kingdom should be separated from the Crown of *England*, and not be subject to it. For why should he then have reserved the services to be done to himself, as well as to his son, and some cities and lands to himself and his heirs, and not to King *John*? For *John* was not then his heir apparent, nor like to be his heir, he having at that time elder brothers living, upon whom these cities and lands must have descended, and not upon King *John*: and therefore, if *Ireland* had been separated from *England*, and wholly vested in *John*, his father *Henry*, and his brothers after him must have done service to him for them, which I think no man will once conceive without laughter. And it is not altogether unworthy of observation, that neither *Hanmer* (the only man cited by this author) nor *Hoveden* say, that *Hen. 2.* gave the kingdom to *John* and his heirs, as this Author saith, and alledgeth *Hanmer* for his proof; for *Hanmer* saith only, that he created his son *John* King in *Ireland*, and *Hoveden*, that *constituit Johannem Regem in Hiberniâ*.—He constituted *John* King in *Ireland*, but not a word of heirs;

(*e*) *Cok. Inst.*
1. fol. 47.
143, and in
other books.

heirs; whereby it seems, that what kind of King soever he did intend him to be, it should be only during his life, and not to descend to his heirs.

It is apparent by many of our histories, that *Henry 2d.* made his eldest son *Henry* King of *England*, with himself, and crowned him King two several times; yet he never had the absolute government of *England*, but swore fealty to his father, and became his liege-man; and therefore, there is no likelihood, that he would make his youngest son an absolute King of a whole kingdom, which he would never do to his eldest; but it is rather manifest, that by the experience he had of the mischiefs that beset him by making his eldest son King with himself, that he was wary of doing any such thing afterwards, and therefore would never have King *John* crowned King of *Ireland*.

And whereas our author saith, that '*Ireland* was distinguished and severed apart from the Kingdom of *England*, all the time of *Hen. 2.* and *Rich. 1.* during which time King *John*, as absolute Lord of *Ireland*, made divers Grants and Charters yet extant in *Ireland*, stiling himself *Dominus Hiberniæ*, and that after the Grant made to King *John*, neither *Hen. 2.* nor *Rich. 1.* ever stiled themselves either Kings or Lords of *Ireland*, so as by that gift it appears, that King *Henry* was divested of all royal power in *Ireland*, and that it was vested in his son *John*.' The answer thereto is very easy; for it is still denied, and we have nothing but the author's word for it, that there was such a grant, for nothing else appears; and it is also denied, that *Ireland* was severed from *England*, and the contrary of all this appears by what hath been said, and by what hereafter follows. And it cannot be proved, that *Ireland* was separated from *England* all the time of *Hen. 2.* or any part of it, but was always united to it, and governed by the laws of *England*, as will appear hereafter. And for the severance in the time of King *Rich. 1.* how that could be, if it were not severed in the time of King *Henry*, is not well to be understood; but out of doubt King *Richard* had no regard to *Ireland*, nor was his chief care for *England*, during whose whole reign, being nine years and nine months, he was never above eight months in *England*, but busied himself in foreign parts; and therefore regarded *England* but little, and *Ireland* nothing at all; and as to King *John* himself, all the time of his

brother *Richard* he was so careless of *Ireland* (which surely he would not have been, if he had been absolute King thereof) that he never came to it, but busied himself in *England*, *Normandy*, and other parts, in getting great estates, and labouring to get the Kingdom of *England*, and Dutchy of *Normandy* to himself from his brother.

And to make it an argument, that King *John* was absolute Lord of *Ireland*, because neither King *Henry*, nor King *Richard*, did after the grant made (so much dreamed of by this Author) ever stile themselves either Kings or Lords of *Ireland*, it may be as well said, that *Hen. 2.* was never King or Lord of *Ireland*; for he doth not make it appear by any authentick author or record, that he ever stiled himself so in his grants, although my Lord *Cooke* saith,

(f) In *Cal-* (f) that his stile was, *Rex Angliæ, Dominus Hiberniæ, &c.*
vin's Case. —King of *England*, and Lord of *Ireland*, &c.—but it seems he used it not: for *Cooke*, who was conversant with, and knew, and had seen more of the antient Grants and Charters of our Kings and others, than all the Monks and Chro-

(g) Co. Lit. niclers, sets down (g) the stiles of the Kings of *England*,
 7. a. b. since the conquest, where he saith, that the stile of *Hen. 2.* was *Hen. Rex Angliæ, Dux Normandiæ, et Aquitaniæ, & Comes Andegaviæ*,—King of *England*, Duke of *Normandy*, and *Aquitain*, and Earl of *Anjou*—and yet (saith he) he had the Earldoms of *Anjou*, *Tourain*, and *Main*, as son and heir to *Jeffery Plantagenet*. King *Richard* (says he) used the stile that his father King *Hen. 2.* did, yet was he King of *Cyprus*, and after of *Jerusalem*, but never used any of them. King *John* (says he) used that stile, but with this addition, *Dominus Hiberniæ*;—Lord of *Ireland*—and yet all that he had in *Ireland* was conquered by his father *Hen. 2.* which title of *Dominus Hiberniæ* he assumed as annexed to his crown, albeit his Father in the 23d year of his reign had created him King of *Ireland* in his life-time. Thus far *Cooke*. By which it appears, that *Ireland* was annexed to the crown of *England* before King *John* came to the Crown, and that he assumed the title of *Dominus Hiberniæ*,—Lord of *Ireland*.—which land was annexed to the Crown of *England* before, and to that title he stuck, and not to his being created King of *Ireland* before by his Father; for if he had, questionless he would have taken the stile of King of *Ireland*, when he came to be King

King of *England*: and therefore, as it is a poor *non sequitur*, or consequence, to say, that *Hen. 2.* did not stile himself Earl of *Main*, therefore he was not in truth Earl thereof, so it is as bad to say, that *Hen. 2.* nor *Rich. 1.* never stiled themselves Lords or Kings of *Ireland*, therefore they were divested of all royal power in *Ireland*, and that it was vested in King *John*, who was declared by his father to be King thereof, which title of King he never stiled himself by; and therefore we may as well conclude, that he never had the sovereign power thereof, till he had it as he was King of *England*. And as to the allegation, that he made divers charters as absolute Lord of *Ireland*, that is still denied. For he might have power to grant away lands, as others after him, who were Lieutenants there, had, nay, a great part of the land, or all the land might have been granted to him, and he might dispose of it, as *Hen. 3.* King *John's* son, did grant the whole land of *Ireland* to his eldest son *Edw. 1.* but, as the grant saith, *ita quod non separaretur a Corona Angliæ*,—that it should not be separated from the Crown of *England*, and yet the same remain annexed to the Crown of *England*, as doubtless it did. And therefore out of these histories, and from what hath been said, it may be granted, that King *John* had a title of honour given him by *Hen. 2.* in *Ireland*, and the land, or part of it, to dispose of, with a large power over it, yet not so as to exclude his father from any part of it. But that it should be the title of King, and yet he never use it, but only the title of Lord, neither before he was King, nor after, is very strange and unlikely; and it may be probably conjectured, that the title of *Dominus Hiberniæ, filius Regis Angliæ*,—Lord of *Ireland*, son of the King of *England*,—and not *Rex Hiberniæ*,—King of *Ireland*, was given him purposely, that all men might understand, that he was not the absolute King of *Ireland*, but that power rested in his father *Hen. 2.* whom therefore *Cambrensis*, (*b*) after the time that *John* was in *Ireland*, calls *Summus Princeps*, or chief Sovereign, and to whom *John* was stiled subject, and a mean Lord in respect of his father.

And yet, if it be granted (as it may be without hurt to the cause) that he had the title of King of *Ireland*, and might govern as a King, where his father permitted him so to do, and might grant the lands of *Ireland* (as many have
several

(*b*) Expug.
Hib. Lib. 2.
chap. 35.

several times since done by vertue of commissions from the Kings of *England*) yet it will not follow, that therefore he had the absolute power of *Hen. 2.* without controul, no more than that the eldest son of *Hen. 2.* had the only Kingly power in *England*, because he was crowned King thereof; or that *Robert de Vere*, Earl of *Oxford*, because *Rich. 2.* created him Marquiss of *Dublin*, and after Duke of *Ireland* (a greater title than himself had of it) and gave him a kind of kingly power in *Ireland*, therefore that he had the absolute power and dominion of *Ireland* separated from *England*, and yet he did grant lands in his own name whilst he was Marquiss of *Dublin*, his grants beginning thus: *Robertus, Marchio Dublin, Comes Oxoniæ, & Camerarius Angliæ, — Robert, Marquiss of Dublin, Earl of Oxford, and Chamberlain of England, —* and by that name made Sir *John Stanley* his Lieutenant, and in his grant to him gave him regal power to pardon treasons, felonies, &c. as we may see among the records of *Bermingham* tower; (i) and the indictments of that time were *Coram Johanne Stanley, Locumtenente Marchionis Dublin, —* before *John Staneley*, Lieutenant of the Marquiss of *Dublin, —* and the conclusion of them, *contra pacem Domini Regis, & contra pacem ipsius Marchionis, —* contrary to the peace of our Lord the King, and contrary to the peace of the said Marquis, — as may be seen in the same place. (k).

(i) Rot. pat. Anno 10th. Rich. 2. It may be therefore granted, as it is likely to be true, and as has been said before, that King *John* had a great and large power granted to him, yet not absolute, but limited; and so had other Lieutenants after him, as *Richard*, Duke of *York*, in *Hen. 6th's* time, who by covenants between the King and him, confirmed by the Parliament in *Ireland*, had power to grant the King's lands, to place and displace all officers at his pleasure, to receive the King's revenue, both annual and casual, without account, see Sir *John Davis* (l); but not any where doth it appear, that the kingdom was absolutely granted to King *John*, or that (as the author saith) he held it as a separate and distinct kingdom, severed apart from the kingdom of *England*, and of which *Hen. 2.* was divested; which if any should have said, yet there must be better authorities than those of chronicles to guide a case of this high and weighty concernment, or else the author will miss much of what he would have.

(k) Pl. Coron. 11 Rich. 2. tur. Berming. (l) Disc. of Ireland, p. 56, 57.

But

But to make it appear more evidently, that *Ireland* was not absolutely separated from *England*, his own citing of the records of the time of *Hen. 3.* out of *Coke's 1st. Institute fol. 141*, I think to any indifferent man will give full satisfaction. For the record cited by *Coke* of *30th Hen. 3.* but somewhat more fully by *Davis, (m)* and in Mr. St. *John's*^(m) *ibid. p.* argument concerning the bill of attainder of the Earl of *101. Strafford*, makes it most apparent, the words whereof are these,

“ Quia pro communi utilitate
“ terræ *Hiberniæ*, et unitate
“ terrarum Regis, Rex vult, et
“ de communi Consilio Regis
“ provisum est, quod omnes
“ leges et consuetudines, quæ
“ in Regno *Angliæ* tenentur,
“ in *Hiberniâ* teneantur, et ea-
“ dem terra iisdem legibus sub-
“ jaceat, et per eandem rega-
“ tur, sicut Dominus *Johannes*
“ Rex, cum ultimo esset in
“ *Hiberniâ* statuit, & firmiter
“ mandavit, &c.”

Because for the common interest of the land of *Ireland*, and the unity of both countries, the King wills, and it is provided by his Common Council, that all laws and customs, which are observed in the Kingdom of *England*, should be observed in *Ireland*, and that the said land should be subject to, and governed by the same laws, as our Lord, King *John*, when he was last in *Ireland*, ordained, and firmly commanded, &c.

By which Record it appears, that there was an union at that time of *Ireland* to *England*, and that this was confirmed by that Act of Parliament, for it is *Communi Consilio Regis provisum*, —provided by the Common Council of the King. Therefore an act of Parliament made in *England* was conceived to bind *Ireland*, that it should be subject and governed by the same laws, and that this was not the first uniting of it; for it was done before by King *John*, the words being, *Sicut Dominus Johannes Rex statuit*. —As King *John* ordained. —By which it is plain, that if King *John* had first given the laws of *England* to *Ireland*, yet he did it as to a land united to *England*, and therefore did appoint that it should be ruled by the laws thereof. And it is most clear, that *Ireland* was both then united, and so accounted to be to the Crown of *England*: for *Henry* the 3d, son to King *John*, gave the whole land of *Ireland* to *Edward* the Prince, his eldest son, and his heirs, and that in so large a manner, as that he had power both over the ecclesiastical and civil Government

Government thereof. That he had power over the ecclesiastical Government appears by his Writ sent thither directed to the Archbishops, Bishops, &c. the very original whereof we may now see under his own Seal, as Prince, extant in the Treasury of the City of *Dublin*, in these words.

“ *Edwardus*, illustris Regis
 “ *Angliæ* Primogenitus, Archi-
 “ episcopis, Episcopis, ac qui-
 “ buscunque Judicibus Ordina-
 “ riis, seu a sede apostolicâ de-
 “ legatis, per Dominium *Hi-*
 “ *berniæ* constitutis, ad quos
 “ præsentēs literæ pervenerint,
 “ Salutem. Dignitati Regiæ
 “ in Regno *Angliæ* competit,
 “ & competiit ab antiquo, ut
 “ Personæ seculares, seu qui-
 “ cunque alii hujusmodi subditi
 “ dignitati, coram ecclesiastico
 “ Judice nequeant implacitari,
 “ nisi intemptanda contra ipsos
 “ actio matrimonialis aut tes-
 “ tamentaria existere dignosca-
 “ tur; reliquas enim causas
 “ sibi potestas Regia reservavit.
 “ Cumque circa præmissa ex
 “ dono Domini Regis, Patris
 “ nostri, consimili gaudeamus
 “ libertate in terrâ nostrâ *Hi-*
 “ *berniæ*, qua et Dominus nos-
 “ ter Rex in Regno *Angliæ* su-
 “ prædictæ gaudet. Vobis igitur
 “ firmiter prohibemus, ne
 “ contra cives nostros *Dub-*
 “ *liniæ* teneatis placita in Cu-
 “ riâ Christianitatis de Catallis
 “ aut debitis, nisi Catalla ipsa
 “ aut debita de testamento aut
 “ matrimonio existant. Quia
 “ placita, quæ non sunt de tes-
 “ tamento aut matrimonio, ad
 “ nostram pertinent dignitatem.
 “ et ibidem generalitèr de quo-
 “ cunque

Edward, eldest son to the illustrious King of *England*, to all Archbishops, Bishops, and to all the ordinary Judges there, or to those delegated by the apostolick See, constituted through the Lordship of *Ireland*, to whom these letters shall come, greeting. It is agreeable, and always has been to in ancient times, to the royal Dignity in the Kingdom of *England*, that secular persons and all others, who are subject to the said dignity, cannot be impleaded before an ecclesiastical Judge, unless the suit be matrimonial or testamentary; the Royal Power having reserved all other causes to itself. And whereas we enjoy the same privilege in our land of *Ireland* concerning the premisses by the donation of our Lord, the King, our Father, as our Lord, the King, enjoys in the said Kingdom of *England*. We therefore firmly prohibit you, that you do not hold plea of chattles or debts against our citizens of *Dublin* in Court Christian, unless such chattles or debts are testamentary or matrimonial. Because pleas which are not testamentary or matrimonial belong to our dignity, and we there generally prohibit actions any way concerning lay fee to be held in Court Christian: and that in all

“ cunque laico facto fieri pro-
 “ hibemus ; et ut futuris tem-
 “ poribus valeat nostra prohi-
 “ bitio nostris civibus antedictis
 “ presentem eis patentem lite-
 “ ram fieri fecimus, ad nostrum
 “ beneplacitum duraturam. Da-
 “ tum in Castris apud *Kenel-*
 “ *worth* 27^o. die *Junii*, Anno
 “ Regni Domini Regis, Patris
 “ nostri quinquagesimo.”

all future times our prohibition may have force in behalf of our said citizens, we have caused these our letters to be made patent to them, to continue during our pleasure. Given at our castle of *Kenelworth* the 27th day of *June*, in the 50th year of the reign of our Lord the King, our Father.

That he had power over the lands of *Ireland*, and did make grants of them, appears by many records of grants made by him before he was King. I shall only cite one in the Rolls-Office, intituled, *Antiquissimæ literæ patentes et Commissiones*—The most antient Letters Patent, and Commissions.—dated 6th *February*, 20th *Edw. 1.* in these words,

“ *Edwardus*, Dei gratiâ Rex
 “ *Angliæ*, Dominus *Hiberniæ*,
 “ et Dux *Aquitaniæ*, Archie-
 “ piscopis, Episcopis, Abbati-
 “ bus, Prioribus, Comitibus,
 “ Baronibus, Justitiariis, Vice-
 “ comitibus, Præpositis, Minis-
 “ tris, &c. salutem. Cum, Ce-
 “ lebris *Memoriæ*, *Johannes*,
 “ Rex *Angliæ*, avus noster, per
 “ chartam suam, quam inspex-
 “ imus, dedisset, concessisset,
 “ et confirmasset, *Thomæ Fitz-*
 “ *Anthony* Custodiam Comita-
 “ tum *Waterfordiæ* et *Desmo-*
 “ *niæ*, cum Custodiâ Castrorum
 “ de *Waterford* et *Dungarvan*,
 “ et etiam omnium Dominico-
 “ rum suorum Comitatum præ-
 “ dictorum (excepta Civitate
 “ *Waterford*) habendum præ-
 “ fato *Thomæ* et hæredibus suis,
 “ donec idem avus noster vel
 “ hæredes sui ea per finem, vel
 “ alio modo, extra Manus suas
 “ Dimisissent, Reddendo indè
 “ ad *Scaccarium Dublin* du-
 “ centas

Edward, by the grace of God,
 King of *England*, Lord of *Ire-*
land, and Duke of *Aquitain*, to
 the Archbishops, Bishops, Ab-
 bots, Priors, Earls, Barons, Jus-
 tices, Sheriffs, Provoests, Minis-
 ters, &c. greeting. Whereas
John, King of *England*, of re-
 nowned memory, our Grandfa-
 ther, by his Charter, which we
 have viewed, had given, grant-
 ed, and confirmed, to *Thomas*
Fitz-Anthony the Custodiam of
 the Counties of *Waterford* and
Desmond, with the Custodians
 of the castles of *Waterford* and
Dungarvan, and also of all his
 Demesnes in the said Counties
 (except the City of *Waterford*)
 to hold to the said *Thomas*, and
 his heirs, until our the said
 Grandfather or his heirs, should
 by fine, or otherwise, demise
 them out of his hands ; yielding
 thereout at the Exchequer at
Dublin 250 Marks yearly. And
 our Lord *Henry*, heretofore King
 of

" centas et quinquaginta Mar-
 " cas per Annum. Et inclitæ
 " recordationis Dominus Hen-
 " ricus, quondam Rex Angliæ,
 " Pater noster, postquam præ-
 " dicti Comitatus, castra, terræ,
 " et tenementa, ad Manus suas
 " devenerunt, habitâ diu seisinâ
 " eorundem, nos de eisdem Co-
 " mitatibus, Castris, terris, et
 " tenementis, cum pertinentiis
 " fæssasset, habendum et tenen-
 " dum nobis et hæredibus nos-
 " tris in perpetuum, ita quod
 " non separarentur a Coronâ
 " Angliæ. Nosque postmodum
 " de Comitatibus, terris, et te-
 " nementis prædictis, una cum
 " Custodiâ Castri de *Dungar-*
 " *van*, *Johannem*, filium *Thomæ*,
 " dum infra ætatem fuimus,
 " feofassemus, habendum &
 " tenendum eidem *Johanni*, et
 " hæredibus suis in perpetuum,
 " reddendo inde nobis et hæ-
 " redibus nostris quingentas
 " marcas per Annum ad præ-
 " dictum Scaccarium *Dublin*;
 " de quibus quidem terris & te-
 " nementis comitatum prædic-
 " torum, cum omnibus quæ ad
 " eosdem Comitatus pertinent,
 " ratione feoffamenti prædicti,
 " sic infra ætatem facti, et in-
 " trusionibus, quas prædictus
 " *Johannes* fecit in eisdem sine
 " liberatione nostrâ, seu Minis-
 " trorum nostrorum, per præ-
 " ceptum nostrum versus *Tho-*
 " *mam*, filium *Mauritii*, con-
 " sanguineum & hæredem præ-
 " dicti

of *England*, of illustrious me-
 mory, our Father, after the said
 Counties, Castles, Lands, and
 Tenements, came into his hands,
 having long had Seizin thereof,
 he infeoffed us of the same
 Counties, Castles, Lands, and
 Tenements, with the Appurte-
 nances, to have and to hold to
 us and our heirs for ever, so that
 they should not be separated from
 the Crown of England. And we
 afterwards, while we were un-
 der age, infeoffed *John Fitz-*
Thomas of the said Counties,
 Lands, and Tenements, together
 with the custody of the castle
 of *Dungarvan*, to have and to
 hold to the said *John*, and his
 heirs for ever; rendering there-
 out to us and our heirs five hun-
 dred marks yearly at the said
 Exchequer at *Dublin*; all which
 Lands and Tenements, and
 Counties aforesaid, with the ap-
 purtenances thereto belonging,
 by reason of the said feofment
 made while we were under age,
 and of the intrusions, which the
 said *John* made into the same,
 without the livery of us or our
 Ministers, we recovered by our
 precept in our Court, by the judg-
 ment of the said Court, as our
 right, against *Thomas Fitz-Mau-*
rice, Cousin and heir of the said
John, together with the residue
 of the Lands and Tenements,
 with the appurtenances, which
 remained in the hands of the
 said *Thomas Fitz-Maurice*, We
 in

"dicti *Johannis* in Curia nos- in consideration of the laudable
 "tra per considerationem ejus- services, &c.
 "dem Curia recuperavimus ut
 "jus nostrum, et residuum ter-
 "rarum & tenementorum, cum
 "pertinentiis, quod in manum
 "prædicti *Thomæ filii Mauricii*
 "remansit, nos consideratione
 "laudabilis servitii, &c."

And then he grants those lands to the heir of *Thomas Fitz-
 Anthony*. By this recital of the grant made to *Edw. 1.* by
 his Father *Hen. 3.* it appears, that he had power to grant
 the lands of *Ireland*, and accordingly did grant them; but
 this clause was inserted in the grant, which gave that pow-
 er, *ita quod non separarentur a Corona Angliæ*, — so that
 they should not be separated from the Crown of *England*,
 and that in the original grant made to him of *Ireland* by his
 Father there was that clause appears by Sir *John Davis(n)*, (*n*) *ibid. p.*
 where he says, that *Hen. 3.* gave the whole land of *Ireland*²⁵
 to *Edward*, the Prince, his eldest Son, and his heirs, *ita
 quod non separaretur a Corona Angliæ*, — so that it should
 not be separated from the Crown of *Eng'land*; whereupon it
 was called the land of the Lord *Edward*, the King's eldest
 Son, and all the officers of the land were called the officers
 of *Edward*, Lord of *Ireland*, and that this original Charter
 yet remaineth perfect, with an entire seal in the Treasury
 at *Westminster*. And by the abovementioned writ directed
 to the Bishops, &c. it is plain, that his power was placed
 over the ecclesiastical government to regulate the same.

Now we do not find, that King *John* had any greater
 power, or more absolute government over *Ireland*, than
Edw. 1. when he was Prince, had; therefore we have no
 reason to think, that he had a more absolute interest and
 power over *Ireland* from King *Hen. 2.* than *Edw. 1.* had
 from his Father *Hen. 3.* which yet was subject to the go-
 vernment of *England*.

Again, this grant made to *Edw. 1.* was made by his Father
Hen. 3. who was son to King *John*, and succeeded him in
 the kingdom, and therefore could not be ignorant of it, if
 there had been such a separation, as the author speaks of,
 by the grant to King *John*; but in the time of *Hen. 3.*
 there was no separation of *Ireland* from *England*; for in his
 grants

grants made to *Edw. 1.* he provides, that it should not be separated from the Crown of *England*, which had been a senseless thing for him to have done, if it had been a separate and distinct kingdom, absolute of itself before; neither could it possibly be so separated, and after united again in so short a time, but that we should have had some testimony either of the separation or union, or how either of them should have been done, of any of which we have none; and therefore may well conclude, that it was from the conquest thereof united to *England*, and subject to the laws thereof, and so ever accounted as hereafter shall appear.

Likewise in the said Act of Parliament *pro unitate terrarum*,—for the unity of the two lands, and the same, or another to the same purpose cited by Mr. St. John to be entered in the Pat. Rolls of 5 *Edw. 3.* but by that of the Lord Cooke to be 13 *Edw. 1.* (but for the matter they are all one) it is enacted, *quod una et eadem lex debet esse tam in Regno Angliæ, quam Hiberniæ*,—that one and the same law ought to be observed as well in the kingdom of *England*, as in *Ireland*, and by that which Mr. St. John cites, *eadem lex fiat tam Hibernicis quam Anglicis*,—Let the same Law be used as well to the *Irish* as to the *English*; by which acts, and the grants of *Hen. 3.* to his son, nothing can be more plain, than that *Ireland* was united to *England*, and so in those times accounted to be, yea and bound by the statutes of *England*: for in these statutes it is not said, that the Common Law shall be the same, but *omnes leges et consuetudines teneantur, et eisdem legibus subjaceat*,—that in it all laws and customs shall be observed, and it shall be subject to the same laws, and to the Statute Laws, as well as the Common Laws. And I much marvel, that the author citing these statutes, which no doubt he could not but have read in Mr. St. John's argument, and which makes so much against him, not so much as offers to give any answer to them, or clear them from these objections and reasons, which so naturally arise out of them, but silently passes them over, as he does all St. John's other allegations (to which the Reader is referred) which so fully prove *Ireland* to be annexed and united to the Crown of *England*, and that the King and Parliament of *England* have power over *Ireland*. To which I shall add some statutes, which are the most binding and highest authorities, and those made in *Ireland*, to prove the
same

same to be united and annexed to the Crown of *England*, and so shall conclude of this first matter.

The statute of 28th *Hen. 8. Chap. 6.* in *Ireland*, concerning appeals, saith, this land of *Ireland* is the King's proper dominion of *England*, and united, knit, and belonging to the Imperial Crown of the same realm, which Crown of itself, and by itself, is fully, wholly, intirely, and rightfully endowed and garnished with all power, authority, and pre-eminence, sufficient to yield and render to all and singular subjects of the same, full and plenary remedies in all causes of strife, debate, &c. By which statute it is most manifest, that if *Ireland* be the King's proper dominion of *England*, and united and knit to the Imperial Crown of the same, as the statute saith it is, that then it is not divided and separated absolutely from it, as the author would have it; and if the Crown of *England* hath full power and authority to render full remedies to all the subjects of the same, and *Ireland* be united to that Crown, then the Kings and Parliaments of *England* have power to give laws to *Ireland*, as a part belonging to the Crown of *England*. The statute of Absentees in *Ireland* 28th *Hen. 8. Chap. 3.* saith, that it is notorious and manifest, that this the King's land of *Ireland*, heretofore being inhabited, and in due obedience and subjection unto the King's most noble progenitors, Kings of *England*, who in those days, in the right of the Crown of *England*, had great possessions, rents, and profits, within the said land, &c. What can be more plain, than that *Ireland* is annexed to *England*, whereas the Kings of *England* had in the right of the Crown of *England* great possessions, rents, and profits there in *Ireland*, and that not at the time of making this Act, but long before in the time of the progenitors of *Hen. 8.* which no doubt were not many years after the conquest; for then was *Ireland* better settled, and in more due obedience, than ever it was after, till of late years.

Statute 28th *Hen. 8. Chap. 5.* in *Ireland* says, that the land of *Ireland* is depending and belonging justly and rightfully to the Imperial Crown of *England*.

The statute of Faculties in *Ireland* 28th *Hen. 8. Chap. 19.* recites the same Act formerly made in *England*, and adds further, that forasmuch as it is mentioned in the said Act, that the effects thereof should not only extend into the realm of *England*, and to the commodity thereof, but also to all

other the King's dominions and his subjects; and that this the King's land of *Ireland* is his proper dominion, and a member appending, and rightfully belonging to the Imperial Crown of the said realm of *England*, and united to the same, &c. Certainly if a man may believe the judgments of so many Parliaments, even in their own cause, *Ireland* is not severed from *England*, nor an absolute kingdom of itself, unless you can make a member to be no part of the body, nor belonging to it; for this Act saith expressly, that it is a member belonging to the Crown of *England*, and united to the same. And therefore it appears plainly, and shall yet afterwards more fully, if any thing can be more plain, that King *John* did not in the 12th year of his reign (as the author saith) establish the form of Civil Government to be according to the laws of *England*; and as afterwards, towards the end of his book, he saith, that the government of *Ireland* was established by King *John* in the 12th year of his reign according to the model of *England*, as if it had been a distinct government from it, and *England* but a pattern for the government of *Ireland*; but that it was and is a member of *England* united to it, and as a part and province of *England* governed, yea even from all their ordinary courts of justice, their laws, directions, and commands, as shall hereafter appear.

The author, after citing of the forenamed records out of *Cooke's Institutes*, tells us, that although the ordinance of King *John* for the establishment of the laws of *England* in *Ireland* be general, yet it is manifest, that the Common Law of *England* was only put in execution in those parts of *Ireland*, which were reduced and divided into counties, and not in the *Irish* territories, which were not reduced into shires until the times of Queen *Mary* and Queen *Elizabeth*; for King *John* (saith he) made but twelve counties, all which were in *Leinster* and *Munster*, and names them to us, and how the rest of *Leinster*, and the provinces of *Ulster* and *Conaught* were reduced into Counties in Queen *Mary's* and Queen *Elizabeth's* reigns: but what he intended to infer thereupon he doth not tell us, unless you will say, therefore *Ireland* was a kingdom absolutely divided from the Government of *England*, which I think few will conceive to be a good argument, and that we may as well conclude from thence, that therefore *Ireland* is annexed to *England* by the conquest

conquest of the kingdom by our later Kings, and by Queen Elizabeth. But that it may appear, that the author is as much deceived in this, as in all the rest, and that we may know in what state *Ireland* was about the first hundred years after the conquest, till by mingling the *English* with the *Irish*, and using of their barbarous customs, and by the oppressions of the great Lords of their tenants, we had almost lost all. It is manifest by many records, that the whole realm of *Ireland* was antiently reduced into counties, and that the *English* laws had passage throughout the same, as appears by several pipe rolls of the time of *Hen. 3.* in the Exchequer of *Ireland*, where there are accounts made for fines paid by the mere *Irish* for disseisins, and many other kinds of trespasses committed by them in those places, which the author calls *Irish* territories, though some of the *Irish*, with their posterity after them, being always averse to the *English* laws, could not digest them, but hid themselves in bogs, mountains, and woods, where, till the *English* fell at odds among themselves, and called the *Irish* to their parties for aid, they did shelter, and used their *Brehon* law, and could not endure the *English* laws, which were given at first, as the afore said old statute saith, *tam Anglis quam Hibernicis*,—as well to *English* as *Irish*, and thereupon were utterly excluded from the benefit of the *English* laws, and in many old statutes were called *Irish* enemies, and had no benefit of the *English* laws, until they purchased grants of denization, which many of them did, as may be seen in Sir *John Davis*, (o) and many of the antient records there cited. (o) Dis. of Ire;

Afterwards by the continual rebellions of the *Irish*, who gained strength by the quarrels of the *English* among themselves, and calling to them for aid, and by the degenerating of the *English* into the *Irish* barbarous customs, and forsaking the laws of *England*, and by the desolations which war brought upon the kingdom, the circuits and districts of those counties, and the mears and bounds of them were utterly lost, and also the names of some of them. For the *Irish* did so much hate the *English* government, that they would not have the counties called by their names, but turned them all into territories and septs, and gave them other names as they pleased, as in the county of *Conaught* were the territories of *Mac William Eighter*, and *Mac William Oughter*; and in *Ulster* the *O-Neils* of the upper and lower *Claneboys*, which

which before and now are part of the counties of *Down* and *Antrim*, with many others of this kind in all the several parts of the kingdom, which they enjoyed in the province of *Conaught* in the times of *Edw. 1. and 2.* *Conaught* did not contain that whole province, as we now account it; but there was then the county of *Conaught*, which was but a part of that province, and the county of *Roscommon*, which is now accounted a part of the province of *Conaught*, as appears by the records of those times.

In the Chief Remembrancer's Office *Anno 32. 33 Edw. 1. Rot. 4. 5.* Connacia. Richardus Blake, *vicecomes Connaciæ*,—*Conaught.* Richard Blake, Sheriff of *Conaught*,—*et Rot. 23.* Roscommon. *Mandatum est vicecomiti, de Roscommon, quod de bonis & catallis David de Burgo pecuniam, quæ aretro est de terris Regis de Offrithes levare faciat hic Regi in Crastino Purificationis Mariæ solvendam,*—The Sheriff of *Roscommon* is commanded, that he levy of the goods and chattles of *David de Burgo* the money, which is in arrear out of the King's lands of *Offrithes*, to be paid here to the King on the day after the Purification of the Virgin *Mary*.

In 31, 32, 33, 34 *Edw. 1. Rot. 13.* Gerald Tirrel *vicecomes de Roscommon, et in Rot. 12.* Connacia. Hen. Birmingham *nuper vicecomes Connaciæ*.—*Conaught.* Henry Birmingham late Sheriff of *Conaught.* Hill 15. *Edw. 2.* in the plea roll of the court of Common Pleas.

“ Connacia. Præceptum fuit
“ vicecomiti, quod capiat in
“ manum Domini Regis per
“ visum, &c. tertiam partem
“ Maneriorum de *Foran* &
“ *Rymnel*, et advocationem ec-
“ clésiæ Manerii de *Rymnel*,
“ cum pertinentiis, quod *Ma-*
“ *ria*, quæ fuit uxor *Odonis de*
“ *Barry* senioris in curiâ hic cla-
“ mat ut dotem suam versus
“ *Odonem* filium *Odonis* senio-
“ ris, per defectum ipsius *Odo-*
“ *nis.*”

Conaught Ss. The Sheriff was commanded to seize into the King's hands by view, &c. the third part of the Manors of *Foran* and *Rymnel*, and the advowson of the church of the Manor of *Rymnel*, with the appurtenances, which *Mary*, who was the wife of *Odo de Barry* the elder, claimeth here in court, as her dower, against *Odo*, son of *Odo* the elder, by default of the said *Odo*.

Mich.

Mieb. 17. Edw. 2. in the plea roll of Common Pleas,

Conaught } " Preceptum fuit
Roscommon } " vicecomiti Ros-
Tipperary } " common quod
" venire faciat hic ad hunc di-
" em duodecim tam, &c. de
" vicineto de *Atbtruim O-many*
" per quos, &c. et qui nec *Ed-*
" *mundo de Valle*, nec *Richardus*
" filio *Richardi de Valle*, aliquâ
" affinitate attingunt ad recog-
" noscendum super sacramen-
" tum suum, si prædictus *Richardus*,
" filius *Richardi* die
" lunæ proximè ante festum S.
" *Michaelis*, anno Regni Regis
" nunc 15, veniendo versus
" *Dublin* captus fuit apud *Atb-*
" *truim O-many*, per *Morrogh*
" *O-Callie*, et sequelam suam,
" *Hibernicos Felones Domini*
" Regis, et ibi in prisona deten-
" tus usque in crastinum anima-
" rum proximè sequentem, ita
" quod interesse non potuit co-
" ram Justitiariis hic ad quin-
" denam S. *Michaelis* ad res-
" pondendum prædicto *Edmun-*
" *do* de plácito quod reddat ei
" unum messuagium sexaginta
" & sex decem acras terræ,
" cum pertinentiis, in *Knockras-*
" *ban*, quæ prædictus *Edmun-*
" *dus* in curiâ hic clamat ut
" jus suum versus *Richardum*
" filium *Richardi*, &c. Et præ-
" dictus *Edmundus*, et *Richard-*
" *dus* filius *Richardi*, per attor-
" natos suos modo venerunt,
" & Vicecomiti *Roscommon* mo-
" do mandatum fuit, quod bre-
" ve istud returnaret, et retor-
" navit, quod liberavit illud
" *Petro*

Conaught } The Sheriff of the
Roscommon } county of *Roscom-*
Tipperary } *mon* was com-
manded to summon twelve men
to appear here on this day, &c.
out of the vicinage (neighbour-
hood) of *Atbtruim O-many*, by
whom, &c. and such, who are
no way related by affinity nei-
ther to *Edmund de Valle*, nor to
Richard Fitz-Richard de Valle,
to find upon their oaths, if the
said *Richard Fitz-Richard* on
the *Monday* next before the feast
of St. *Michael*, in the 15th year
of the King that now is, in com-
ing towards *Dublin*, was taken
at *Atbtruim O-many* by *Mor-*
rogh O-Callie, and his follow-
ers, *Irish* Felons of the King,
and there detained in prison un-
to the morrow of *All Souls* next
following, so that he could not
appear before the Justices here
on the quindene of St. *Michael*,
to answer the said *Edmund* in a
plea, whereby he was required
to render unto him one mes-
suage, and seventy six acres of
land, with the appurtenances,
in *Knockrasban*, which the said
Edmund challenges in the Court
here, as his right, against the
said *Richard Fitz-Richard*, &c.
And the said *Edmund* and *Richard Fitz-Richard* now ap-
peared by their Attorneys, and
the Sheriff of *Roscommon* was
now commanded to return the
said writ, and he returned, that
he delivered the same to *Peter*
de Cancewelly, Constable of the
castle

‘ *Petro de Cancewelly*, Consta-
 ‘ bulario de *Athtruim O-many*,
 ‘ qui officium in brevi contentum
 ‘ facere tenetur, qui nihil re-
 ‘ spondet, propter quod offici-
 ‘ um, prout in brevi continetur,
 ‘ exequi non potuit. Et prædic-
 ‘ tus *Edmundus* dicit, quod præ-
 ‘ dictus *Richardus* filius *Richardi*
 ‘ alias fecit defaultam in curiâ
 ‘ hic; et postea prædictus *Richardus*
 ‘ venit hic (*viz.*) in
 ‘ *Craftino* animarum Anno Reg-
 ‘ ni Regis nunc 16^o. et dixit
 ‘ quod ipse captus fuit in comi-
 ‘ tatu *Connaciæ* apud *Athtruim*
 ‘ *O-many* per prædictum *Mor-
 ‘ rogh*, et ibidem in prisonâ de-
 ‘ tentus, ut prædictum est, et
 ‘ tunc petiit verificari, prout pa-
 ‘ tet in rotulo de prædicto ter-
 ‘ mino (*viz.*) in *craftino* anima-
 ‘ rum Anno Regni Regis nunc
 ‘ 16^o. super quo tunc conces-
 ‘ sum fuit breve vicecomiti *Con-
 ‘ naciæ*, quod venire faciat hic
 ‘ a die paschæ proximè prædicto
 ‘ in 15 dies duodecim tam, &c.
 ‘ per quos, &c. et qui, &c. ad
 ‘ recognoscendum in formâ præ-
 ‘ dictâ, &c. ad quem diem
 ‘ (*viz.*) a die paschæ in 15 dies
 ‘ vicecomes *Connaciæ* returna-
 ‘ vit, quod prædictus locus, ubi
 ‘ prædictus *Richardus* dixit se
 ‘ fuisse, captum non est in co-
 ‘ mitatu suo, sed est in comita-
 ‘ tu *Roscommon*, et ipse *Edmun-
 ‘ dus* tunc hoc non dedixit, sed
 ‘ bene cognovit, et prædictus
 ‘ *Richardus* similiter tunc hoc
 ‘ non dedixit, sed tacendo hoc
 ‘ concessit, et ita tunc decade-
 ‘ bat a responsione suâ prædictâ.
 ‘ Et sic per hoc constat quod
 ‘ non

castle of *Athtruim O-many*,
 whose business it was to execute
 the office commanded by the
 said writ, who made no return
 to it, upon which account he
 could not execute the office re-
 quired by the said writ. And
 the said *Edmund* said, that the
 said *Richard Fitz-Richard* at a-
 nother time made default in the
 Court here. And afterwards
 the said *Richard* appeared here,
 namely, on the morrow of *All*
Souls in the 16th year of the
 King that now is, and said, that
 he was taken in the County of
Conaught at *Athtruim O many*
 by the said *Morrogh*, and there
 detained in prison, as aforesaid,
 which he offered to verify, as
 appears in the roll of the said
 term, namely, of the morrow of
All Souls, in the 16th year of
 the King that now is: upon
 which a writ then issued to the
 Sheriff of *Connaught*, that he
 should cause to appear here on
 the quindene of *Easter* twelve
 men, as well, &c. by whom,
 &c. and who, &c. to find in
 forme aforesaid, &c. At which
 day, namely, on the quindene
 of *Easter*, the Sheriff of *Co-
 naught* returned, that the said
 place, where the said *Richard*
 alledged he was taken, is not in
 his County, but is in the County
 of *Roscommon*, and *Edmund* him-
 self did not then deny the same,
 but fairly acknowledged it; and
 in like manner the said *Richard*
 did not then deny it, but by
 silence confessed it, and so he
 then departed from his said an-
 swer. And so from hence it
 appears,

' non fuit captus in comitatu
 ' *Connaciæ*, et Curia minus pro-
 ' vidē per surreptionem contra
 ' formam Juris adjudicabat bre-
 ' ve vicecomiti *Roscommon* ve-
 ' nire faciendum Juratam inter
 ' eos in formā prædictā, ubi ad-
 ' judicasse debuit seisinam ei-
 ' dem *Edmundo* de prædictis te-
 ' nementis, et petit quod Curia
 ' redeat ad id modo faciendum,
 ' quod de lege fecisse debuit ad
 ' prædictam quindenam paschæ,
 ' & petit seisinam, &c. Et præ-
 ' dictus *Richardus* filius *Rich-*
 ' *ardi* per attornatum suum
 ' dicit, quod de quo prædictus
 ' *Edmundus* ad prædictam quin-
 ' denam paschæ concessit, quod
 ' prædictus locus est in Comi-
 ' tatu *Roscommon*, ipse *Richar-*
 ' *dus* propter tacentiam suam a
 ' responsione prædictā non ad-
 ' judicetur, et indē petit Judi-
 ' cium, et petit breve viceco-
 ' miti *Roscommon* in formā præ-
 ' dictā. Et quia prædictus *Rich-*
 ' *ardus* alias (ut prædictum
 ' est) dixit, quod ipse captus
 ' fuit apud *Athtruim O-many*
 ' in Comitatu *Connaciæ*, et vi-
 ' cecomes *Connaciæ* returnavit,
 ' quod locus prædictus (ut præ-
 ' dictum est) non est in Comita-
 ' tu suo, sed in Comitatu *Ros-*
 ' *common*, et idem *Richardus* ad
 ' prædictam quindenam paschæ
 ' hoc non dedixit, sed tacendo
 ' hoc concessit, sic ipse tunc de-
 ' cadebat a responsione suā præ-
 ' dictā (*viz.*) quod captus fuit
 ' in Comitatu *Connaciæ*, ideo
 ' consideratum est, quod præ-
 ' dictus *Edmundus* recuperet
 ' seisinam suam de prædictis te-
 ' nementis

appears, that he was not taken
 in the County of *Conaught*; and
 the Court unadvisedly and by
 surprize adjudged against form
 of law a writ to issue to the
 Sheriff of *Roscommon* to cause a
 Jury to appear between them
 in form aforesaid; where they
 ought to have adjudged seisin
 of the said tenements to be giv-
 en to the said *Edmund*, and de-
 manded, that the Court should
 return to do that, which by law
 they ought to have done on the
 said quindene of *Easter*, and de-
 manded seisin, &c. And the
 said *Richard Fitz-Richard* by
 his Attorney said, that since the
 said *Edmund* on the said quin-
 dene of *Easter* allowed, that the
 said place is in the County of
Roscommon, that he the said *Rich-*
ard by reason of his silence
 should not be concluded from
 his said answer, and thereupon
 demanded judgment, and a writ
 to the Sheriff of *Roscommon* in
 form aforesaid. And forasmuch
 as the said *Richard* at another
 time (as is aforesaid) alledged,
 that he was taken at *Athtruim*
O-many in the County of *Con-*
naught, and the Sheriff of *Con-*
naught returned, that the said
 place (as is aforesaid) is not in
 his County, but in the County
 of *Roscommon*, and the said *Rich-*
ard on the said quindene of
Easter did not deny this, but by
 his silence confessed it, so he
 then departed from his said an-
 swer, namely, that he was tak-
 en in the County of *Connaught*;
 therefore it is adjudged, that
 the said *Edmund* should recover

‘ nementis versus prædictum
 ‘ *Richardum* per defaultam ipsi-
 ‘ us *Richardi*, &c.”

his seisin of the said tenements
 against the said *Richard* by the
 default of the said *Richard*,
 &c.

Pat. 11. *Edw. 2.*

Pat. 11. *Ed. 2.* ‘ Vicecomites *Dublin*, *Meath*,
 ‘ *Kildare*, *Tipperaria*, *Lymerrick*,
 ‘ *Cork*, *Connacia*, et *Roscom-*
 ‘ *mon* habent brevia ad capien-
 ‘ dum in manum Regis omnes
 ‘ terras & tenementa, bona &
 ‘ catalla *Walteri de Lacie*, &c.
 ‘ propter feloniam, &c. & quod
 ‘ corpora eorum capiantur.”

The Sheriffs of *Dublin*, *Meath*,
Kildare, *Tipperary*, *Lymerrick*,
Cork, *Connaught*, and *Roscom-*
mon, have writs directed to them
 to seize into the King’s hands
 all the Lands and Tenements,
 Goods and Chattles of *Walter*
de Lacie, &c. for felony, &c.
 and to seize their bodies.

I will not be troublesome to cite any more Records for
 the province of *Connaught*, but shall proceed to the province
 of *Ulster*; and to prove that it was antiently divided into
 counties, I shall cite some few.

Rot. Pat. 20. *Edw. 2.*

Pat. 20. *Ed. 2.* ‘ Rex dilecto sibi *Johanni de*
 ‘ *Mandeville*, salutem. Sciatis,
 ‘ quod commissimus vobis offi-
 ‘ cium Vicecomitis de *Duno*, et
 ‘ *Novæ-villæ*, Habendum et
 ‘ exercendum quam diu nobis
 ‘ placuerit; ita quod de exiti-
 ‘ bus eorundem comitatuum
 ‘ nobis ad scaccarium nostrum
 ‘ *Dublin* respondeatis, capiendo
 ‘ sæda, quæ alii Vicecomites
 ‘ in comitatibus prædictis tem-
 ‘ poribus retroactis capere con-
 ‘ sueverunt. Mandamus etiam
 ‘ per præsentis omnibus Balivis
 ‘ & fidelibus nostris comitatu-
 ‘ um prædictorum, quod vobis
 ‘ in officio prædicto intendentes
 ‘ sint & respondentes. Dat 11o.
 ‘ *Septemb. 20o. Edw. 2.*”

The King to his beloved *John*
de Mandeville, greeting. Know
 ye, that we have committed to
 you the office of Sheriff of *Down*
 and *New-town*, To have and
 occupy during our pleasure; so
 that you be responsible to us at
 our Exchequer at *Dublin* for
 the issues of those counties, tak-
 ing such fees as other Sheriffs
 in the said counties in time past
 have used to take. We also by
 these presents command all Bai-
 liffs, and other our faithful sub-
 jects of the said counties, that
 they be obedient and answerable
 to you in the said office.
 Dated the 11th of *September*,
 20th *Edw. 2.*

Robertus

Robertus Savage habet consimilem warrantiam pro officio *Colerain* in many anti-ent records is called *Coul-rath*.
Vicecomitis comitatus de Coulrath sub eodem datu.—Robert Savage has a like warrant for the office of Sheriff of the county of *Coulrath*, of the same date.

Rot. Pat. 20 Edw. 2. *Rex dilecto sibi Johanni de Athye salutem. Sciatis quod commissimus vobis officium Vicecomitis in comitatibus de Carrickfergus et Antrim, tenendum quam diu nobis placuerit*; and so verbatim as in the former patent to *John Mandeville*.—Dat. 11. Septemb. 20 Edw. 2.—The King to his beloved *John de Athye*, greeting. Know ye that we have committed to you the office of Sheriff of the counties of *Carrickfergus*, and *Antrim*, to hold during pleasure, &c.

Concerning *Leinster*. The only counties that were (as the Author saith) made shire ground in the reign of *Queen Mary*, and not before, were the *King's* and *Queen's* counties (for the county of *Wicklow* was taken out of the county of *Dublin* of late years) But it appears they were anciently parcels of other counties.

It appears in the black book of the Exchequer in *Ireland*, fol. 81. and in fundry pipe rolls, that the territory of *Crin-gydagh*, which lies on west *Meath* side, was charged with royal service, as lying within the county of *Meath*, and it is now made part of the *King's* county. This was in Edw. 3. time.

The manor of *Geashill*, now lying in the *King's* county, was the ancient inheritance of the Earl of *Kildare*, and containeth near forty plow lands, and was antiently in the county of *Kildare*, as appeareth by an inquisition taken at *Naas* in the county of *Kildare*, Anno 3. Edw. 2. mentioned in a record in *Bermingham's* tower in the said year, importing that *Maurice Fitz-Gerald* was seized thereof, and that he had issue *Gerald*, who conveyed the same to *John Fitz-Thomas*, the said Earl's ancestor.

In the black book of the Exchequer, fol. 84. and in divers other pipe rolls, it appears, that *Offaly*, part whereof is now in the *King's* county, is charged with twelve Knights fees to the King in the county of *Kildare*.

Concerning the *Queen's* county, it appears, that *Simon*, In a plea son to *John Delahoide*, brought a Formedon in Discender a-roll in the gainst Sir *Maurice Fitz-Gerald*, Knight, for twelve plow chief Re-membran-cer's office lands, which lye in the remotest part of *Leix*, upon a deed made by *Andrew Preston* to the said *John*, and *Agatha* his wife, 6 Edw. 3.

wife, et hæredibus de corporibus ipsorum Johannes & Agathæ,
—and to the heirs of the bodies of the said John and Agathæ,
as lying in the county of *Kildare*.

In *Berm.*

tow. in the
bundle of of-

fices of *Rich.*

2.

Leix is now

a great part

of the 2^d.

coun.

By an inquisition taken at *Salmon Leap* in the county of
Kildare, Anno 20. *Rich.* 2. it appears, that Sir Robert
Preston, among other things, tenuit per legem Angliæ de
hæreditate Margaritæ, nuper uxoris suæ, manerium de *Sion*
in *Leix* de Rogero de Mortuomari, ut de manerio suo de
Donmaske,—that Sir Robert *Preston* held by the law of
England the inheritance of Margaret, his late wife, the
manor of *Sion* in *Leix* of Roger Mortimer, as of his manor
of *Donmaske*, &c.

Plea roll. 21

Edw. 3. Rot.

62. in tur.

Berming.

It appears, that in the 20th of *Edw.* 3. *Connell O-more*
of *Leix*, who had after rebellion submitted himself at *Athy*
to *Walter Bermingham*, Justice of Ireland, and acknow-
ledged that he held his manor of *Bellet*, and other his lands
in *Leix*, of *Mortimer*, as of his said manor of *Donmaske*,
and by the Record it appeareth that those lands were then
in the county of *Kildare*.

Bund. offic.

Hen. 5. in

tur. *Berming.*

It appears by an office taken the 8th of *Hen.* 5. at *Naas*,
in the county of *Kildare*, upon a writ of devenerunt, that
the manor of *Courtbreak* (now called *Castlebreak*) and the
Lordship of *Oregan*, which are now in the Queen's county,
were in the hands of *Hen.* 4. by the death of *John Fitz-*
Gerald, Earl of *Desmond*, and were in the hands of *Hen.* 5.
by reason of the minority of *Thomas* his Son.

De an. 6. *Ed.*

in Scac.

In an inquisition taken at *Catherlogh* 6th *Edw.* 6. it ap-
pears,

• Quod *Hen.* 8. feistitus fuit de
• terris in *Ballintubber*, *Kill-*
• *isben*, & aliis terris in *Slieu-*
• *Marge*, in comitatu *Cather-*
• *logh*, & quod diversi subditi,
• quorum nomina ignorantur,
• feistiti fuere de residuo Domi-
• nii de *Slieu-Marge* in comita-
• tu *Catherlogh*, et quod *Con-*
• *gallus O-More*, et alii rebelles
• intraverunt et intruserunt,
• &c.

That *Hen.* 8. was seized of the
lands of *Ballintubber*, *Killisben*
and other lands in *Slieu-Marge*
in the county of *Catherlogh*,
and that divers subjects, whose
names are not known, were
seized of the residue of the
Lordship of *Slieu-Marge* in the
county of *Catherlogh*, and that
Congal O-More, and other re-
bels, entered and intruded
therein, &c.

This *Slieu-Marge* is now in the *Queen's* county; and, if it were necessary, it might be made appear, that every particular territory in the *King* and *Queen's* counties were found by Records to be parcels of some one of the antient counties, made (as our Author saith) by King *John*.

By these Records, and many others remaining in *Ireland*, it appears, that *Ireland* was antiently divided into counties, that the King's writs were current there, that the Sheriffs did execute them, and that accounts were made in the Exchequer at *Dublin*, that they had manors. advowsons of churches, franchises, &c. as they had in *England*. But this being not so close to the matter in hand, what is said shall suffice.

The second ground laid down by the Author (which if it prove false will overthrow his whole building) is, that all such statutes as have been made since the time that King *John* established the laws of *England* in *Ireland*, which are only declaratory of the Common Law, are of force in *Ireland* without any other confirmation or approbation, but only the first establishment, as the statute of the 25th *Edw.* 3. *de Preditionibus*, and many other statutes of the like kind (as he saith); but such statutes, as are introductive and positive, making new laws, or altering, adding to, or diminishing the antient Common Laws, have not been of force in *Ireland*, till they were enacted, allowed, and approved of by act of Parliament in *Ireland*, as may appear by the judgments of many Parliaments holden there, viz. the 13th of *Edw.* 2. and others, which we shall examine afterwards, whether there were any such or no; and if there were, what they were, and of what force. And again he saith the same thing, and a third time he saith, it is not to be found in any record in *Ireland*, that ever any Act of Parliament, made in *England* since the time of King *John*, was by the judgment of any Court received for law, or put in execution in *Ireland*, until the same was established by Act of Parliament in *Ireland*: and a fourth time (that he may be the better believed) he cites *Brook.* tit. Parliament, p. 19. That *Ireland* is a realm of itself, and hath its own Parliaments, implying thereby (saith he) that *Ireland* cannot be bound but by the Parliament of *Ireland*, and according to that (saith he) is the opinion of the Judges 20th of *Hen.* 6. *Rich.* 3. f. 8. and likewise, contrary to the opinion of *Hussey*, are

eight

eight several Parliaments in *Ireland* before the statute of the 10th of *Hen. 7.* viz. the 13th of *Edw. 2.* the 19th of *Edw. 2.* the 18th of *Hen. 6.* the 29th of *Hen. 6.* the 32d of *Hen. 6.* the 37th of *Hen. 6.* and the 8th of *Edw. 4.* and since the statute of the 10th of *Hen. 7.* of five Parliaments, viz. the 28th of *Hen. 8.* the 33d of *Hen. 8.* the 28th of *Eliz. 11 Jac.* and 10 *Car.* besides the statute of the 10th of *Hen. 7.* itself. And he saith, it doth not appear by any record found in *Ireland*, or in any of the year books in *England* since the time of King *John*, which is above 400 years, that ever any judgment was given or grounded upon any statute made in *England*, which is a meer positive law, and not a declaration of the Common Law, before the same was received and allowed by Act of Parliament in *Ireland*.

Let us now therefore examine this his second ground. And first, if it should be admitted, that the Parliament of *England* did never make laws, which did bind, and were executed in *Ireland*, before they were confirmed by Parliament there, to conclude therefore from thence, that they have no power to do it, is a very ill consequence, and unsound argument, and the contrary may easily be proved. But because that assertion, that the Parliament of *England* did never make laws which bound in *Ireland*, till they were confirmed there by Act of Parliament, is manifestly mistaken, I will not trouble any with the unsoundness of this argument; but let us see the invalidity of this assertion.

It appears by the Author's own confession, that such laws made in *England*, as are declaratory of the Common Law, do bind *Ireland*, as the statute 25 *Edw. 3d. de proditiobus*, and many other statutes, as he saith, without any confirmation there; whence it must necessarily follow, that the Parliament of *England* hath still an influence upon *Ireland*; for their exposition by a statute there, where the law is in any doubt of the Common Law in *Ireland*, is, as he saith, of force in *Ireland*, without any other approbation, which could not possibly be if *Ireland* were so absolute, that the government of *England* had nothing to do with it. Further, what had *Ireland* to do with their declaratory laws? Or how should they bind them? But if it should happen, that the Parliament of *England* should make an exposition of a law in force in *Ireland*, and the Parliament there should make another, and that it may be different or contrary to that of

England,

England, certainly *Ireland* must be bound (by the Author's own rule) by the declaratory statute of the Parliament of *England*. For he saith, that the statutes of *England*, as that of 25th *Edw.* 3d, &c. which are only declaratory, are of force in *Ireland* without any other confirmation. And if they have power by a statute there to declare what is law which shall bind in *Ireland*, why should they not as well have power to make a new law to bind it? For if a declaratory law binds, it binds as it is a statute; for the declaratory statute saith, the law should be thus or thus taken. Therefore, if they should not bind in other cases, where positive laws (as he calls them) are made for *Ireland*, as well as in these, you must say the Parliament of *England*, has power to bind *Ireland* by a statute made in *England*, and yet it has not power to bind *Ireland*; and yet it is one and the same power, which makes declaratory laws and new laws, and so it is understood in the Parliament of *York*, 12. *Edw.* 2. Where in the preamble to those statutes it is said—"Because the people of the realm of *England* and " of *Ireland* have suffered mischiefs and disseisins, &c. because in some cases, where default was in law, no remedy was ordained, and because some statutes before made had need of a declaration; therefore the King at his Parliament there holden made the statutes following, which he would have firmly kept in his said realm, and in his said land." By which it appears, that the Parliament there conceived, that their power was all one, both to make new laws, and to make declarations upon laws formerly made, as well in *Ireland* as *England*; and therefore to go about to divide their power (as the Author would do by his distinction) is a distinction and a division of a thing, which is in truth indivisible, and never before heard of, and, I believe, which by understanding men will hardly be believed or maintained. But if this difference (which I believe will prove a difference without a diversity) should be admitted to him, then saith he, laws which are introductive and positive, making new laws, or altering, adding to or diminishing the antient Common Laws, have not been binding or of force in *Ireland*, till they have been enacted and approved by Act of Parliament in *Ireland*.

In finding out the truth of this, let us first inquire, what the Parliaments of *England* have done, and what acts they have

have made concerning *Ireland* in former ages. By the name of *Parliament*, I desire once for all to be understood acts made by the consent of the King, Lords, and Commons.

(p) 13. *Edw.* 1. The preamble to the statutes of *West.* 2. (p) saith, " That
 " whereas of late our sovereign Lord the King, in the 6th
 " year of his reign, calling together his Prelates, &c. and
 " his Council at *Gloucester*, and considering, that divers of
 " this realm were disinherited, by reason that in many cases,
 " where remedy should have been had, there was none pro-
 " vided by him nor his Predecessors, ordained certain sta-
 " tutes right necessary and profitable for his realm, where-
 " by the people of *England* and *Ireland*, being subjects un-
 " to his power, have obtained more speedy justice in their
 " oppressions, than they had before, &c." By which it
 appears, that the statute of *Gloucester*, wherein only the
 realm of *England* is named, did bind and was executed in
Ireland. For the statute saith, that by these statutes the
 people of *Ireland* obtained more speedy justice than they had
 before, as well as the people of *England*.

(q) 13. *Edw.* 1. The statute called *Statutum de Mercatoribus* (q) doth
 confirm the statute of *Aston Burnell* (r), and at the end
 thereof saith, " that this ordinance and act the King willeth
 (r) made 11. " to be observed throughout his realms of *England* and *Ire-*
Edw. 1. " land, among which people they that will may make such
 " Recognisances, &c.

By a Parliament in the time of *Edw.* 1. the customs of
 wool, wool-fells, and leather, were granted to the King of
England, *Ireland* and *Wales*. *Cook* 2d. Instit. fol. 531.

(s) made 12. The preamble of the statute of *York* (s) saith, " Foras-
Edw. 2d. " much, as the people of the realm of *England*, and of the
 " land of *Ireland*, heretofore, have suffered mischief, da-
 " mage, and disseisin, by reason that in some cases, where
 " the law failed, no remedy was ordained, and forasmuch
 " as some points of the law heretofore made had need of a
 " declaration, the King at his Parliament at *York* in the
 " 12th year of his reign hath made the establishments and
 " statutes following, which he willeth to be firmly observed
 " in his said realm and land."

In 34. *Edw.* 3. Chap. 17. a statute was made in *Eng-*
land, that the people of *England*, which have their possessi-
 ons in *Ireland*, may bring their corn, &c. to *Ireland*, and
 from

from thence re-carry their goods and merchandizes freely into *England* without impeachment, paying their customs to the King.

Anno 3d. *Rich.* 2. an act was made in *England* against absentees, and commanding all such as had land in *Ireland* to return and reside thereon, upon pain to forfeit 2 thirds of the profits thereof. This act is cited by Sir *John Davis* (t) ^{(t) Arch.tur.}
p. 42. 222. of which more hereafter. ^{rot.Parl. 42.}

Statute 4. *Hen.* 5. Chap. 6. in *England* recites, that it was ordained in the time of the King's progenitors by a statute made for the land of *Ireland*, that none of the *Irish* nation should be chosen by election to be Archbishop, Bishop or Abbot, &c. nor accepted to any dignity or benefice in the same land, by colour of licences from the King's Lieutenant there, which said statute was not duly kept, therefore that statute ordains, that the said statute should be well and truly kept, and fully executed, &c. And that, whereas the said Bishops and Peers of the Parliament of that land bring with them to the Parliaments, and Councils, there holden, *Irish* servants, whereby the privities of the *Englishmen* within the said land have been, and be duly discovered to the *Irish* people, rebels to the King, &c. That statute of 4. *Hen.* 5. further ordains, that if any such Archbishop, Bishop, &c. of the *Irish* nation, rebels to the King, have in time past made, or from thenceforth shall make any collations, &c. to benefices in the land of *Ireland*, against the form of the former recited statutes, or bring with them any *Irish* rebels among the *Englishmen* to the Parliaments, &c. within the land, that then from time to time all their Temporalities shall be seized into the King's hands, till they have made fines to the King, &c. as by that statute, printed among the statutes at large in 1587 more at large appears. By stat. 1. *Hen.* 6. Chap. 3. in *England*, it is enacted, that all *Irish* people, which have benefices or offices in the land of *Ireland*, shall abide there upon their benefices and offices, upon pain to lose and forfeit the profit of their benefices for the defence of the land of *Ireland*, according to the ordinance made in the time of King *Hen.* 5. the first year of his reign.

By statute 10. *Edw.* 4. cited in *Bagot's* assize, 19. *Edw.* 4. fol. 9, 10, 11. It was enacted, that King *Edw.* 4. should have all such manors, lands, &c. whatsoever they be,

be, in *England, Wales, and Ireland*, and in *Calais*, and the marches thereof, as King *Richard* had on the feast of *St. Matthew* in the 22d year of his reign into the right and title of the Crown of *England*, and Lordship of *Ireland*.

(u) 1st. Rep.
fol. 28.

By statute 19. *Hen. 7.* in *England*, cited by *Coke* (u) in *Altenwood's* case, it is enacted, that *Edw.* Earl of *Warwick*, confederate with *Perkin Warbeck*, shall forfeit to the King all his honours, castles, manors, &c. within the realms of *England* and *Ireland, Wales, Calais*, or the marches of them.

By statute 27. *Hen. 8.* Chap. 20. in *England* it was enacted, that every of the King's subjects of the realms of *England, Ireland, and Wales, and Calais*, and the marches of the same, according to the ecclesiastical laws and ordinances of the Church of *England*, &c. shall pay their tythes and offerings.

By these and many other statutes made in *England* in several Kings reigns concerning *Ireland*, it is apparent, that the Parliament of *England* in all times made no doubt, but that the laws made there concerning *Ireland* did bind in *Ireland*.

(w) *Ploud.*
Com. fol.
398. b.

It is said, (w) that the Parliament is a Court *de tres grande Honor et Justice de quel nul doit imaginer chose dishonorable*; —that the Parliament is a Court of high Honour, and Justice, of which nothing dishonourable ought to be imagined; —and surely heretofore the wisdom, justice, and honour of Parliaments have been accounted almost sacred. But, if this Author be to be believed, that Court was in all these Kings times so far from being wise, just, or honourable, that it hath still been full of ignorance, injustice, and stupidity. For to seek to bind a whole nation, and give them laws, whereas they had no power over them, or any thing to do with them, must needs be unjust, dishonourable, and unreasonable. And therefore, if we will believe, that what so many Kings together, what the whole representative body of the Kingdom have done in so many ages, have been just and honourable, rather than the Author's bare affirmation to the contrary, we must conclude, that the Parliament of *England* have always had power to make laws to bind *Ireland*, otherwise they would never have been so unjust, dishonourable, and unreasonable to have done it.

But

But faith the Author, although the Parliament of *England* might make laws for *Ireland*, yet it is not to be found in any record in *Ireland*, that any Act of Parliament made in *England* since King *John*'s time was by the judgment of any Court in *Ireland* received for law, or put in execution there, till the same was established by Act of Parliament in *Ireland*.

In this also is the author mistaken. For it appears by records in *Ireland*, that statutes made in *England*, though *Ireland* was not named in them, were received there for law, and put in execution, before any statutes made in *Ireland* to confirm them: nay, in times, after some of the pretended statutes made in *Ireland*, by which the Author would have the Parliament of *England* barred from making laws, which might bind *Ireland*, without consent of a Parliament there statutes have been made in *England*, and some of them only for *Ireland* which were received in *Ireland*, and put in execution there, before any statute made in *Ireland* to confirm them.

And here it is to be observ'd, that the first statute which the Author cites and relies on, as a bar to the power of the *English* Parliament, is a statute, which he says was made 13. *Edw.* 2. confirming the statute of *Westminster*, 1. and 2. *Merton*, *Marle-bridge*, and *Gloucester*. And indeed, if any such kind of statute was made, that of 13. *Edw.* 2. must needs be the first; for that confirms the statute of *Merton* made in *England*, 20. *Hen.* 3. than which we have none in print received for statutes more antient, but only *Magna Charta*, and *Charta de Foresta*. But these antient statutes made in *England* were received and executed in *Ireland* before the statute of 13. *Edw.* 2. in *Ireland*, by him mentioned; and therefore, the laws of *England* bound *Ireland* before any statute in *Ireland* to confirm them.

We are again to observe, that many of the antient records of *Ireland* in troublesome times were transmitted into *England*; wherein, no doubt, we may find many things to prove what we now affirm against the Author's assertion; and those which remain in *Ireland* were put up together in one place, in the times of rebellion; and after taken out by the officers of the several courts, but not duly sorted. For we find some that belong to the court of *C. B.* to be in the remembrancer's office, &c. But the records, which are

there now vouched, are to be seen in those places, where they are said to remain.

To proceed to the proofs. It appears by the author's own discourse, that the Parliament of *England* upon the conquest had power over *Ireland*. For he saith, that the grant to King *John* was a grant in Parliament; and again, that it was done by Authority and assent of Parliament; but he makes no proof, that they granted away that power. But how the contrary appears we have in part shewed, and shall hereafter make more fully apparent.

It appears by the authorities cited by himself, as the records of 30. *Hen. 3.* and *Edw. 1.* and by that cited by Mr. St. *John 5. Edw. 3.* that in those times *Ireland* was accounted to be subject to the government of *England*, and to the laws thereof. The preamble to the statute of *Westminster 2.* makes it evidently appear, that the statutes of *Gloucester, 6. Edw. 1.* were executed in *Ireland*. For it says, that by those statutes the people of *England* and *Ireland* have obtained more speedy justice against their oppressions, than they had before; but it is not possible that the people of *Ireland* should obtain more speedy justice by those statutes, unless they had been received there for laws, and put in execution. Therefore it must necessarily follow, that the statutes of *Gloucester* were received and executed in *Ireland* before 13. *Edw. 1.* when the statutes of *Westminster 2.* were made, which was also long before the Author's first statute of 13. *Edw. 2.*

Brev. fo.
208.

The statute of *Westminster 2. 13. Edw. 1.* gives the writ of *Cessavit* against the tenant for recovery of the lands holden, who for two years ceases doing the services reserved by tenure. This is an introductive and a new law, as is observed by *Fitz Herbert*; (x) and wherein *Ireland* is not named; yet that statute was there received, and put in execution in the same King *Edw. 1.* his time, as we may see by a record in 26, *Edw. 1. Rot. 2.* in the Remembrancer's office, but belonging to the common pleas, intitled,

‘ Placita

H I B E R N I C A:

Dy

Placita apud *Dublin* in
 Octavis S. *Hillarii*, anno Re-
 gis *Edw.* 26. coram *Rob.*
Bagod, et sociis suis, Justi-
 ciariis de Banco *Dublin*. *Ro-*
bertus de Willeby, & *Alicia*
 uxor ejus, optulerunt se 4^o
 die versus *Willielmum Trissel*,
 de placito quod reddat eis
 decem Acres terræ, cum per-
 tinentiis, in *Knights Town*,
 quas idem *Willielmus* de eis-
 dem tenet per certa servitia,
 et quæ ad præfatum *Robertum*
 et *Aliciam* reverti debent
 per formam Statuti Domini
 Regis nuper inde provisi. Eo
 quod dictus *Willielmus* in fa-
 ciendo dicta servitia per bien-
 nium jam cessavit. ut dicitur.
 Et prædictus *Willielmus* non
 venit, et summonitus fuit:
 Ideo Præceptum est Viceco-
 miti, quod capiat prædictas
 terras in manum Domini Re-
 gis, et idem, &c. & quod
 summoneat, &c. quod sit hic
 a die Paschæ in 15 dies ad
 respondendum, &c. & ad
 ostendendum, &c.

Roger Bigod, (y) Comes
 Norfolk, & Mareſchallus An-
 glia, per Attornatum suum
 obtulit se 4^o die versus *Ja-*
cobum de Perſe de Placito
 quod reddat ei unum Meſſua-
 gium, et tres Carucas ter-
 ræ, 20 Acres Prati, 20 Acres
 Bosci, 60 Acres Pasturæ, &
 40 Acres Moræ, cum perti-
 nentiis in *Tiberchalian*, quæ
 idem *Jacobus* de eo tenet per
 certa servitia, et quæ ad præ-
 fatum Comitem reverti de-
 bent per formam Statuti Do-
 mini

Pleas held at *Dublin* on the
 octave of St *Hillary* in the 26th
 year of King *Edward*, before
Robert Bagod and his associates,
 Justices of the common plea,
Dublin. *Robert de Willeby* and
Alicia his wife appeared on the
 4th day against *William Trissel*
 in a plea, that he should restore
 to them ten acres of land, with
 the appurtenances, in *Knight's-*
town, which the said *William*
 holds of them by certain serv-
 ices, and which ought to revert
 to the said *Robert* and *Alice* by
 form of the statute of our Lord
 the King lately enacted: be-
 cause the said *William* hath
 ceased for two years in doing
 the said services, as is alledged:
 and the said *William* was sum-
 moned, and did not appear.
 Therefore the sheriff was com-
 manded to seize the said lands
 into the King's hands; and he,
 &c. and that he should sum-
 mon, &c. that he appear on the
 quindene of Easter to answer,
 &c. and to shew cause, &c.

Roger Bigod, Earl of Norfolk,
 and Mareſchal of England, ap-(y) 26 *Edw.*
 peared by his attorney on the 1. in *Offm.*
 4th day, against *James de Perſe* Rcm.
 in a plea, that he should res-
 tore to him one meſſuage, and
 three carucates of land, 20
 acres of meadow, 20 acres of
 wood, 60 acres of pasture, and
 40 acres of moore, with the
 appurtenances in *Tiberchalian*,
 which the said *James* holds of
 him by certain services; and,
 which ought to revert to the
 said Earl, by form of the sta-
 tute of our Lord the King made

‘mini Regis inde provisi, eo
 ‘quod prædictus *Jacobus* in fa-
 ‘ciendo dicta servitia per bien-
 ‘nium jam cessavit, ut dicitur;
 ‘et prædictus *Jacobus* non ve-
 ‘nit, et summonitus fuit; præ-
 ‘ceptum est Vicecomiti, quod
 ‘capiat prædictum messuagi-
 ‘um, terras, prata, Boscum,
 ‘pasturam, et moram, in ma-
 ‘num Domini Regis, et idem,
 ‘&c. et quod summeat ip-
 ‘sum *Jacobum* quod sit hic a
 ‘die Paschæ in 15 dies ad res-
 ‘pondendum, &c. et ostenden-
 ‘dum, &c.’

for that purpose; because, the
 said *James* ceased for two years
 from doing the said services,
 as is alledged; and the said
James was summoned, and did
 not appear. Therefore the she-
 riff was commanded to seize the
 said messuage, lands, meadow,
 wood, pasture, and moore into
 the King's hands, and he, &c.
 and that he should summon the
 said *James* to appear on the
 quindene of Easter, to answer,
 &c. and to shew cause, &c.

The statute of *Westminster*, 2. Chap. 18. made 13.
Edw. 1. which gives the elegit upon a judgment for debt
 or damages, is an introductory law, as is adjudged in Sir
 (x) 3. *Coke* *William Herbert's* case; (z) before which statute the lands
 11. 6. and 2, of the defendant upon a judgment for debt or damages should
 Instit. not by the Common Law be had in execution. This sta-
 tute was usually executed in *Ireland* in the time of *Edw.*
 the first, and *Edw.* the second, before the statute of 13.
Edw. 2. which, as the author says, did confirm it there,
 as appears in divers records.

Anno 35.
Edw. 1. in
 turri Birm. ‘Communia Placita apud
 ‘*Corke* coram *Johanne Wogan*,
 ‘justiciario *Hiberniæ*, in octa-
 ‘vis sanctæ Trinitatis, 35.
 ‘*Edw.* 1.

‘Præceptum fuit vicecomiti,
 ‘quod de terris et catallis *Wal-*
 ‘*teri Reith* in *Balliavâ* suâ fieri
 ‘faciat 11l. 7s. 4d. et illas
 ‘fine dilatione habere faciat
 ‘*Julianæ Cole*, quas eadem *Ju-*
 ‘*liana* in Curia, &c. coram,
 ‘&c. apud *Corke*, per consi-
 ‘derationem ejusdem curiæ,
 ‘&c. recuperavit versus eum.
 ‘Præceptum etiam fuit viceco-
 miti,

Common pleas held at *Cork*
 before *John Wogan*, Lord Jus-
 tice of *Ireland*, on the octave
 of the holy Trinity, in the 35th
 year of *Edw.* 1.

The sheriff was commanded,
 that he cause to be levied, 11l.
 7s. 4d. out of the lands and
 chattles of *Walter Reith* with-
 in his Bailiwick, and without
 delay deliver them over to *Ju-*
liana Cole, which the said *Ju-*
liana recovered against him in
 the court, &c. before &c. at
Corke, by judgment of the said
 court. The Sheriff was also
 com-

' miti, quod de terris et catallis
 ' prædicti *Walteri* in *Ballivâ*
 ' suâ fieri faceret 40s. et illos
 ' sine dilatione habere faceret
 ' *Johanni* de *Patrick-Church*,
 ' Clerico, assignato ejusdem
 ' *Julianæ*, qui eidem *Julianæ*
 ' in præfatâ Curiâ, &c. coram,
 ' &c. adjudicati fuere pro dam-
 ' nis suis, quæ prædicta *Juli-*
 ' *ana* habuit occasione detenti-
 ' onis debiti prædicti, et quod,
 ' &c. scire faciat justitiano hic,
 ' &c. a die sancti *Johannis*
 ' *Baptistæ* in quindecim dies,
 ' ubicunque, &c. Postea ad
 ' diem illum vicecomes mandat,
 ' quod præceptum fuit Majori
 ' et Ballivis civitatis *Corke*, qui
 ' sic respondent. *Walterus Reith*
 ' non habet bona seu Catalla
 ' unde pecunia in brevi conten-
 ' ta levare potest. Ideo ad in-
 ' stantiam querentis præceptum
 ' fuit vicecomiti quod liberari
 ' faceret prædictæ *Julianæ* om-
 ' nia mobilia prædicti *Walteri*,
 ' exceptis bobus et asinis de
 ' carucâ; et pro residuo, si
 ' quid fuerit, habendo, habere
 ' faceret eidem *Julianæ* me-
 ' dietatem terræ et tenementor-
 ' um prædicti *Walteri* per
 ' rationabile extantum, tenen-
 ' dam ut liberum tenementum,
 ' quousque, &c. juxta formam
 ' statuti, &c. Provisio tamen,
 ' quod inde habere faceret *Jo-*
 ' *banni* de *Patrick-Church*, As-
 ' signato, &c. Et quod, &c.
 ' scire faceret, &c. a die sancti
 ' *Michaelis* in quindecim dies
 ' ubicunque, &c.

commanded, that he levy 40s.
 out of the lands and chattles of
 the said *Walter*, and without
 delay deliver them over to *John*
 of *Patrick's Church* clerk, As-
 signee of the said *Juliana*, which
 were adjudged to the said *Juli-*
ana in the said court, &c. be-
 fore, &c. for the damages,
 which the said *Juliana* suffered
 on occasion of the detention of
 the said debt. And that he
 should make a return of what
 he did to the justice here on
 the quindene of *John the Bap-*
tist, wheresoever &c. After-
 wards on the said day the She-
 riff returned, that he issued a
 precept to the mayor and bay-
 liffs of the city of *Cork*, who
 answered thus; *Walter Reith*
 hath not goods or chattles,
 from whence the money mentio-
 ned in the said writ could be
 levied. Therefore at the in-
 stance of the plaintiff the she-
 riff was commanded, that he
 should deliver into the possession
 of the said *Juliana* all the
 moveable effects of the said
Walter, except the oxen and
 beasts of the plow, and for the
 residue, if any remained, that
 he should give possession to the
 said *Juliana* of the moiety of
 the lands and tenements of the
 said *Walter* by a reasonable ex-
 tent, to hold as a Freehold un-
 til, &c. According to the form
 of the statute, &c. provided
 nevertheless that he deliver
 thereout to *John de Patrick*
Church, assignee, &c. and that,
 &c. he should return what he
 should do, &c. on the quindene
 of St. *Michael*, whereupon, &c.

Anno 3 *Edw.*
2 *Rot.* 66. in
Turri Berm.

‘ *Placita querelarum apud Cassel coram Justiciario ad placita Justiciarii Hiberniæ sequentia, habenda et terminanda assignato, die lunæ proximæ post festum Sancti Ambrosii, anno Regni Regis Edwardi filii Regis tertio.*

‘ *Tipperary* *fs. Thomas Leinagh, et Walterus le Bret* attachiati fuere ad respondendum Fratri *Willielmo Ross*, Priori Hospitalis sancti *Johannis Jerusalem in Hibernia*, de eo quod reddant ei octo marcas. Et idem Prior inde profert literas prædictorum *Thomas et Walteri*. Et prædicti *Thomas et Walterus* venerunt, et non possunt hoc dedicere. Ideo consideratum est, quod prædictus Prior recuperet versus præfatos *Thomam et Walterum* prædictam pecuniam, et damna, quæ taxantur ad viginti solidos; et prædicti *Thomas et Walterus* in misericordiâ pro injustâ detentione. Postea prædictus Prior petit sibi liberari medietatem omnium bonorum, terrarum, et tenementorum prædictorum *Thomas et Walteri*, juxta formam statuti, Tenendam nomine liberi tenementi, &c. et præceptum est vicecomiti, &c.

Communia Placita coram *Willielmo de Burgo*, tenente locum Justiciarii *Hiberniæ*, de octavis Sancti Hillarii, Anno Regni Regis *Edwardi*, filii Regis *Edwardi*, secundo.

Pleas of causes held at *Cassel* before the justice assigned by the Lord justice of *Ireland* to hear and determine on the Monday next after the feast of *St. Ambrose* in the 3d year of the Reign of King *Edward*, son to the King.

Tipperary *fs. Thomas Leinagh* and *Walter le Bret* were attached to answer *Frier William de Ross*, Prior of the hospital of *St. John of Jerusalem in Ireland*, for that they should render to him eight marks; and the said Prior produces thereupon the deed of the said *Thomas* and *Walter*. And the said *Thomas* and *Walter* appeared, and could not gainsay it. Therefore it was adjudged, that the said Prior should recover against the said *Thomas* and *Walter* the said sum, and the damages, which were taxed at 20s; and that the said *Thomas* and *Walter* should be amerced for the unjust detention thereof. Afterwards the said Prior demanded, that the moiety of all the goods, lands, and tenements of the said *Walter* and *Thomas* should be delivered to him, according to the form of the statute, to hold as his Freehold, &c. and the sheriff was commanded, &c.

Common pleas held at *Cassel* on the octaves of *St. Hillary*, in the second year of the reign of King *Edw.* son of King *Edward*. 2.

Tipperary,

Tipperary fs. 'Præceptum fuit
 'vicecomiti. quod de terris et
 'Catallis, quæ fuere *Walteri*
 'Dormer in Crastino Epiphaniæ
 'Domini, Anno Regni Regis
 'Edwardi, patris Domini Re-
 'gis nunc 33^o, ad quorumcun-
 'que manus devenerunt in Bal-
 'livâ suâ, fieri faceret quadra-
 'ginta libras, et illas sine dila-
 'tione habere faciat *David le*
 'Blount, quas idem *Walterus*
 'in Curiâ Domini Regis Patris,
 '&c. coram *Edmundo le Botil-*
 'ler, tunc tenente locum *Jo-*
 'hannis Wogan, Justiciarii Hi-
 'bernæ apud *Cashel*, cognovit
 'se debere prædicto *David*, et
 'quas ei reddidisse debuit in
 'prædicto Crastino Epiphaniæ,
 'et non, &c. Et si terræ et
 'Catalla prædicti *Walteri* in
 'Ballivâ suâ ad hoc non suffi-
 'cient, tunc id, quod inde de-
 'fuerit, de terris et catallis,
 'quæ fuere *Willielmi Dormer*,
 'Plegii prædicti *Walteri*, de
 'debitis prædictis, die et Anno
 'prædictis, ad quorumcunque
 'manus devenerunt in Ballivâ
 'suâ, fieri faciat, et prædicto
 'David sine dilatione habere
 'faciat. Et quid, &c. fieri fa-
 'ceret, &c. a die Sancti *Micha-*
 'elis proximè præterito in quin-
 'decim dies, ubicunque, &c.
 'Ad quem diem vicecomes
 'mandat *Willielmo de Burgo*,
 'Tenenti locum *Johannis Wo-*
 'gan, Justiciarii, &c. quod *Wal-*
 'terus Dormer non habet bona
 'nec Catalla in Ballivâ suâ, un-
 'de debitum prædictum fieri
 'potest, sed terræ et teneimen-
 'ta, quæ fuere dicti *Walteri*,
 'devenerunt ad manum *Edmundi*
 'le

Tipperary fs. A precept issued
 to the sheriff, that he should le-
 vy 40l. out of the lands and
 chattles, which belonged to *Wal-*
ter Dormer within his ballywick
 on the morrow of the epiphany
 of our Lord, in the 33^d year of
 the Reign of King *Edward*, fa-
 ther of the King that now is, in-
 to whose ever hands they were
 come, and to deliver the said
 sum without delay unto *David*
le Blount, which the said *Wal-*
ter acknowledged to be indebt-
 ed to the said *David* in the
 Court of our Lord the King, Fa-
 ther to the King that now is,
 held at *Cashel* before *Edmund*
le Botiller, then lieutenant to
John Wogan Lord Justice of Ire-
 land, and which he ought to
 have rendered to him on the said
 morrow of the Epiphany, and
 did not. And if the lands and
 chattles of the said *Walter* with-
 in his Ballywick should not be
 sufficient for this, then that
 whatever should be deficient
 thereout, that he should cause to
 be levied out of the lands and
 chattles of *William Dormer*,
 pledge for the said *Walter* for
 the debt on the day and year
 aforesaid, to whose ever hands
 they came within his ballywick,
 and without delay deliver them
 over to the said *David*. And
 what, &c. should levy, &c. on
 the quindene of St. *Michael* last
 past, wheresoever, &c. At which
 day the sheriff returned to *Wil-*
liam de Burgo, Lieutenant to
John Wogan, Lord Justice, that
Walter Dormer has not goods
 nor chattles, out of which the
 said debt could be levied, but
 F 4 that

' *le Botiller*, quæ jacent frisca
 ' et inculta, ita quod nihil inde
 ' fieri potest; et quod *Williel-*
 ' *mus Dormer* non habet bona
 ' nec catalla in Ballivâ suâ, un-
 ' de debitum prædictum fieri
 ' potest, nisi terras vastas. Et
 ' super hoc prædictus *David*
 ' venit in præfatâ curiâ, coram
 ' præfato *Willielmo de Burgo*, et
 ' elegit sibi liberari medietatem
 ' omnium terrarum et tenemen-
 ' torum quæ fuere prædictorum
 ' *Walteri et Willielmi* die et an-
 ' no supradicto, ad quorumcun-
 ' que manus, &c. tenendam
 ' nomine liberi tenementi, quous-
 ' que, &c. per formam statuti.
 ' Ideo præceptum fuit Viceco-
 ' miti, quod omnes terras et te-
 ' nementa, quæ fuere prædicto-
 ' rum *Walteri et Willielmi* die
 ' et anno supradicto, et etiam
 ' omnes terras et tenementa,
 ' quæ prædicti *Walterus et Wil-*
 ' *lielmus* postea adquisiverunt,
 ' ad quorumcunque manus de-
 ' venerunt in Ballivâ suâ, ex-
 ' tendi, et medietatem terrarum
 ' et tenementorum prædictorum
 ' per rationabile extentum libe-
 ' rari faciat prædicto *David* te-
 ' nendam nomine liberi tene-
 ' menti, quousque prædictas
 ' quadraginta libras inde leva-
 ' verit, juxta formam statuti
 ' prædicti: et quid, &c. scire
 ' faciat Curia hic a die Sancti
 ' Martini proximè in quinde-
 ' cim dies ubicunque, &c. Ad
 ' quem diem vicecomes mandat
 ' quoddam extentum, quod de
 ' terris et tenementis prædicto-
 ' rum *Walteri et Willielmi Dor-*
 ' *mer* fieri feci Curia hic, &c.

: in

that the lands and tenements,
 which were the said *Walter's*,
 came to the hands of *Edmund*
Botiller, which lie waste and
 uncultivated, so that nothing
 could be levied out of them, and
 that *William Dormer* has not
 goods or chattles within his bal-
 lywick, from whence the said
 debt could be levied, except
 waste lands. And hereupon the
 said *David* came into the said
 court before the said *William de*
Burgo, and made his election to
 have delivered to him the moie-
 ty of all the lands and tene-
 ments, which were the proper-
 ty of the said *Walter* and *Wil-*
liam on the day and year afore-
 said, into whose ever hands, &c.
 to hold as his freehold, until,
 &c. according to the form of
 the statute, &c. Therefore the
 Sheriff was commanded to ex-
 tend all the lands and tenements
 within his ballywick, which be-
 longed to the said *Walter* and
William on the day and year a-
 foresaid, and also all the lands
 and tenements, which the said
Walter and *William* afterwards
 acquired, into whose ever hands
 they had come, and to deliver
 the moiety of the said lands and
 tenements by a reasonable ex-
 tent to the said *David*, to hold
 as his freehold, until he levied
 thereout the said forty pounds,
 according to the form of the
 said statute. And what, &c. he
 should make a return to the
 Court here on the quindene of
 St. *Martin*, wheresoever, &c.
 On which day the sheriff re-
 turned an extent, which he had
 made

in hæc verba. Extentum terrarum et tenementorum *Walteri Dormer & Willielmi Dormer* factum coram Fulcone de Fraxineto, Vicecomite *Tipperary*, apud *Ballynewier*, die sabbati proxime ante Festum Sancti Martini, Anno Regni Regis *Edwardi* 2^o. per subscriptos, viz. *Alex. Stoke*, &c. qui jurati dicunt, &c. And so finds the Lands whereof the said *Walter and William* were seized, and the yearly value of them: and at the end of the extent there are these words.—Memorandum, quod prædictus *David* oneratur de omnibus servitiis, quæ ad medietatem suam pertinent, pro eo quod idem *David* habet plenam medietatem terrarum et tenementorum prædictorum.

made of the lands and tenements of the said *Walter and William* to the court here, &c. in these words.—An extent made of the lands and tenements of *Walter Dormer and William Dormer* by *Fulco Asb*, sheriff of *Tipperary*, at *Ballynewier*, on the saturday next before the feast of St. *Martin*, in the second year of the Reign of King *Edward*, by the following persons, namely; *Alexander Stoke*, &c. which jury say, &c. and so they find the lands, whereof the said *Walter and William* were seized, and the yearly value of them. And at the end of the extent are these words.—Memorandum, that the said *David* is charged for all the services, which belong to his moiety, because that the said *David* has the full moiety of the lands and tenements aforesaid.

In the 28th of *Edw. 1.* Roll 6. in *Bermingham* tower, the like execution by elegit is granted against *Richard*, the Son of *Hugh Tirrel*, to *Guido Cockerell*.

Memorandum, quod ad instantiam *Nigello le Brun* per præceptum Thesaurarii charta subscripta fuit hic irrotulata in formâ quæ sequitur.

Universis, *Nicholas Dillon*, Dominus de *Dromlaghin*, salutem. Cum nuper *Thomas* de *Pinkeston* in Curia Domini Regis coram *Johanne Wogan*, Justiciario *Hiberniæ*, recuperasset versus me, & similiter versus *Walterum, Thomam*, et *Hugonem Madock*, et alios, in quodam

Memorandum, that at the instance of *Nigel le Brun*, by command of the Treasurer, the undernamed deed was inrolled here in the following form.

To all, &c. *Nicholas Dillon*, Lord of *Dromlaghin*, greeting. Whereas *Thomas Pinkeston* lately recovered in the Court of our Lord the King before *John Wogan*, Justice of Ireland, against me, and against *Walter, Thomas*, and *Hugh Madock*, and others, in a writ of trespass, which the said

In Scaccario Anno 2. *Edw.* 2. Rot. 9. pro *Nigello le Brun*.

• quodam brevi de transgressione
 • quod prædictus *Thomas* coram
 • præfato Justiciario versus nos
 • tulit, viginti et unam libras
 • argenti pro damnis suis, quæ
 • sustinuit occasione quarundam
 • transgressionum, eidem *Thomæ*
 • per prædictum *Walterum* et
 • *Hugonem* & me illatarum, prout
 • per quandam Juratam patriæ
 • indè inter nos in præfata Cu-
 • riâ captam convicti fuimus,
 • per quod ad sectam ejusdem
 • *Thomæ* medietas omnium ter-
 • rarum et tenementorum meo-
 • rum in prædictâ villâ de *Drom-*
 • *laghin* per breve Domini Re-
 • gis extendebatur, et per idem
 • extentum eidem *Thomæ* libe-
 • rata fuit, tenenda secundum
 • formam statuti inde provisi,
 • quousque prædictas viginti et
 • unam libras plenariè inde le-
 • vaverit. Ac idem *Thomas* pos-
 • tea per conventionem inde
 • inter ipsum et *Nigellum le Brun*
 • factam, medietatem terrarum
 • et tenementorum meorum præ-
 • dictorum eidem *Nigello le*
 • *Brun* demiserit, tenendam in
 • formâ prædictâ quousque idem
 • *Nigellus* prædictam pecuniam
 • plenariè indè levaverit. Ego
 • prædictus *Nicholaus* medietate
 • tem terrarum & tenementorum
 • meorum prædictorum ab
 • eodem *Nigello* accepi ad firmam
 • tenendam ad terminum
 • decem annorum reddendo in-
 • de 6 marcas, &c.

said *Thomas* brought against us
 before the said Justice, the sum
 of 21 pounds of Silver, for the
 damages which he sustained by
 reason of certain trespasses com-
 mitted on the said *Thomas* by
 the said *Walter*, *Hugh*, and me,
 as we were found guilty by a
 Jury for that purpose impanel-
 led between us in the said
 Court: by which at the suit of
 the said *Thomas* the moiety of
 all my lands and tenements in
 the said town of *Dromlaghin*
 were extended by the King's
 writ, and by the same extent
 delivered to the said *Thomas*, to
 hold according to the form of
 the statute in that case provid-
 ed, until thereout he should fully
 levy the said 21l. And the
 said *Thomas* afterwards by a
 agreement made between him
 and *Nigel le Brun* demised the
 moiety of my lands and tene-
 ments aforesaid to the said *Ni-*
gel le Brun, to hold in the form
 aforesaid, until the said *Nigel*
 should thereout fully levy the
 said money. I the said *Nicholas*
 have received the moiety of my
 said lands and tenements aforesaid
 from the said *Nigel* in farm,
 to hold for the term of ten
 years, rendering thereout 6
 marks, &c.

That the statutes of *Merton* and of *Westminster* 2. Chap.
 25. were received in *Ireland*, and there put in execution ap-
 pears by this Record following.

• Adhuc

Adhuc de Communibus Placitis apud *Dublin* coram *Johanne Wogan* capitali Justiciario *Hiberniæ* de 15^o Nativitatis *St. Johannis Baptistæ* Anno Regni Regis *Edwardi* 28.

As yet of the Common Pleas *Annus 28 Ed.* held at *Dublin* before *John Wogan*, chief Justice of *Ireland*, of the quindene of the Nativity of *St. John* the Baptist in the 28th year of King *Edward*.
1. rot. 25. in tur. Ber-
ming.

Kildare, fs. "*Johannes Mariet*, et *Maria* uxor ejus, per Attornatum suum obtulerunt se 4^o. die versus *Gilbertum de Panner*, et *Simeonem Clements*, de placito, quare cum custodia & maritagium *Thomæ de la Bere*, consanguineum & hæredem *Roberti de la Bere*. ad ipsos *Johannem & Mariam* post mortem prædicti *Roberti* pertinere deberent, eo quod idem *Robertus* terram suam de eisdem *Johanne & Mariâ* tenuit per servitium Militare; prædictus tamen *Gilbertus & Simon* post mortem prædicti *Roberti* ipsum hæredem infra ætatem existentem ceperunt & abduxerunt, sine licentiâ et voluntate prædicti *Johannis* et *Mariæ*, et maritaverunt, ad grave damnum ipsius *Johannis* et *Mariæ*, et contra formam statuti de Comuni Consilio Regni, &c. inde provisi. Et ipsi non venere, Ideo ipsi in misericordiâ. Et habuere diem hic ad hunc diem præceptum, &c. Ideo præceptum est Vicecomiti, quod distringat eos per omnes terras, &c. et quod de exitibus, &c. Ita quod habeat corpora eorum, &c. a die sancti *Michaelis* in 15 dies, &c."

Kildare, fs. *John Mariet*, and *Mary* his wife, appeared by their Attorney on the 4th day against *Gilbert de Panner*, and *Simon Clements*, in a plea, that whereas the wardship and marriage of *Thomas de la Bere*, Cousin and heir of *Robert de la Bere*, ought to belong to the said *John* and *Mary* after the death of the said *Robert*, because the said *Robert* held his land of the said *John* and *Mary* by Knight's service, nevertheless the said *Gilbert* and *Simon*, after the death of the said *Robert*, took the said heir, being within age, into their custody, and carried him away, without the licence and will of the said *John* and *Mary*, and married him, to the great damage of the said *John* and *Mary*, and against the form of the statute by the Common Council of the Kingdom, &c. in that case provided. And they did not appear. Therefore they were amerced. And they had time given them to this day on the motion of the parties, &c. Therefore a precept issued to the Sheriff, commanding him to distrain them by all their lands, &c. And that out of the issues, &c. so that he have their bodies, &c. on the quindene of *St. Michael*, &c.

The

The statute of *Westminster* 2. made 13th *Edw.* 1. concerning appeals, and for the malicious abetting of those, which bring appeals, is an introductory law, as appears by *Coke's* second Institute upon that chapter, which yet was executed in *Ireland* in the time of *Edw.* 1. as appears by this Record following.

Anno 28 *Edw.*
1. in Ber-
ming. tower.

‘ *Affisa et Jurata capta apud
Cassel coram Johanne Wogan,
capitali Justiciario Hiberniæ,
die Sabbati in crastino Nativita-
tis Johannis Baptistæ, Anno
Regni Regis Edw. 28.*

‘ *Alias et nunc similiter con-
victi sunt per Juratam, in quâ
Robertus Wodloke, Walterus le
Bret, Richardus Lockard, &
Willielmus de la Sale se posu-
erunt, tam ad sectam Regis,
quam ad sectam Thomæ de St.
John, nuper Vicecomitis Tip-
perary, quod prædictus Rober-
tus falso et malitiosè appella-
vit prædictum Thomam, dum
fuit Vicecomes, de quâdam
roberia, &c. de qua acquieta-
tus est, sicut patet in rotulis
de termino Sancti Michaelis
Anno, &c. 26. per quod ap-
pellum captus fuit, et arresta-
tus, et malo modo tractatus,
et indebitè gravatus; et præ-
dicti Walterus et Richardus ip-
sum ad hoc malitiosè abbetra-
verunt, et prædictum appel-
lum malitiosè sustentaverunt.
Et prædictus Willielmus, qui
tunc fuit Coronator, &c. in-
scius Juris, per prædictum ap-
pellum ipsum cepit et arresta-
vit in pleno comitatu, sed non
abbettavit ipsum ad prædic-
tum appellum faciendum vel*

‘ *prose-*

At an Assize and Jury sum-
moned at *Cashell* before *John
Wogan*, chief Justice of *Ire-
land*, on *Saturday*, the morrow
of the Nativity of Saint *John
Baptist*, in the 28th year of King
Edward.

At another time, and now
also, were found guilty by a Ju-
ry. in which *Robert Wodloke*,
Walter le Bret, *Richard Lock-
ard*, and *William de la Sale*, ap-
peared, as well at the suit of the
King. as at the suit of *Thomas
St. John*, late Sheriff of *Tippera-
ry*, that the said *Robert* falsely
and maliciously appealed the
said *Thomas*, while he was Sher-
iff, of a robbery, &c. of which
he was acquitted, as appears in
the rolls of *Michuemas* term in
the 26th year of the King; up-
on which appeal he was taken,
and arrested, and evilly treated,
and unduly oppressed; and the
said *Walter* and *Richard* mali-
ciously abetted him in this, and
maliciously supported the said
appeal. And the said *William*,
who was then Coroner, &c. be-
ing ignorant of the law, took
and arrested him in full county,
but did not abett him in the
prosecution of the said appeal.
Whereupon the Court taking
the matter into consideration,
according to the form of the
statute,

prosequendum; per quod habito advisamento Curie juxta formam statuti, &c. consideratum est, quod prædictus *Thomas* recuperet versus prædictum *Robertum* 200 marcas, pro Damnis suis, quæ habuit occasione prædictâ, et si prædictus *Robertus* ad hoc non sufficiat, tunc eorundem, quod inde defuerit, recuperet versus prædictum *Walterum* & *Richardum*, & *Robertus*, *Walterus* et *Richardus* committentur gaolæ juxta formam statuti &c. et prædictus *Willielmus*, pro eo quod cepit prædictum *Thomam* Vicecomitem, &c. sine warrantiâ similiter committeretur gaolæ. Postea prædictus *Willielmus* fecit finem per centum solidos per plegium *Nicholai Leynagh*, et *Roberti de Keating Militis*, *Radhulphi de Kendise*, & *Walteri Molock*.

statute, &c. adjudged, that the said *Thomas* should recover against the said *Robert* 200 marks for the damages he sustained on the said occasion; and if the said *Robert* should not be sufficient to pay the same, then as to what should be defective, he should recover against the said *Walter*, and *Richard*, and the said *Robert*, *Walter* and *Richard*, should be committed to goal, according to the statute, &c. And the said *William*, because he arrested the said *Thomas*, then Sheriff, &c. without warrant, should be also committed to prison. Afterwards the said *William* paid a fine of a 100 shillings by his pledges, *Nicholas Leynagh*, and *Robert Keating Knight*, *Ralph de Kendise*, and *Walter Molock*.

The statute of *Westminster* 2. Chap. 25. which gives a writ of Affize in many cases, where it was not before, gives that writ where a lessee for years makes a feofment, in which both Feoffer and Feoffee should be accounted Disseisors; so that during the life of either of them the Affize will lye; which branch of that statute my Lord *Coke* (a) saith is in affirmation of the Common Law. Yet the Judges in *Ireland*, in the beginning of *Edw. 2.* time, take that statute to be an introductory law, and to be of force there as a statute law, which accordingly they executed, as by the Record ensuing appears.

Adhuc de Juratis et Affizes apud *Clonmell*, ex parte *Tipperariæ*, coram *David le Blound*, et *Willielmo de Bourne*, assignatis loco *Johannis Wogan*, Justiciarii *Hiberniæ*, ali-

bi

As yet of Juries and Affizes at *Clonmel*, in the counry of *Tipperary*, before *David le Elund*, and *William de Bourne*, substituted in the room of *John Wogan*, Justice of *Ireland*, otherwise

bi pro arduis negotiis Domini
Regis agentis, die Veneris
proximè post festum S. *Valen-*
tini Martiris, Anno Regni Re-
gis *Edwardi* 2di. 3o.

Tipperary, fs. 'Assiza venit
recognitura, si *Johannes*, filius
Thomæ, injustè, &c. disseisivit
Philippum Bacon de libero te-
nemento suo in *Langston*, post-
quam, &c. et inde queritur,
quod disseisivit eum de uno
messuagio, 160 acris terrarum,
tribus acris prati, et 10 acris
bruërorum, cum pertinentiis,
&c. Et prædictus *Johannes*
non venit, nec habet ballium:
Ideo capiatur assisa versus eum
pro ejus defaultâ. Juratores
dicunt super sacramentum su-
um, quod prædictus *Philippus*
dimisit prædicta tenementa cui-
dam *Waltero Martell* defunc-
to ad terminum annorum, et
idem *Walterus* infra termi-
num prædictum dimisit præ-
dicta tenementa prædicto *Jo-*
hanni in feodo. Ideo habito
respectu ad statutum Domini
Edwardi Regis, Patris Domi-
ni Regis nunc, in quo contine-
tur, quod in hujusmodi casu,
vivente altero eorum, locum
habeat Assisa novæ disseisinæ,
consideratum est, quod præ-
dictus *Philippus* recuperet ver-
sus ipsum *Johannem* seisinam
suam de prædictis tenementis,
cum pertinentiis per visum re-
cognitorum, et damna sua, quæ
taxantur per eandem Assisam
ad decem marcas, et prædic-
tus *Johannes* in misericordiâ.

wife employed upon the ardu-
ous affairs of our Lord the
King, on the *Friday* next after
the feast of St. *Valentine* the
Martyr, in the 3d year of King
Edward the 2d.

Tipperary, fs. An Assize ap-
peared to find, whether *John*
Fitz-Thomas, &c. unjustly dis-
seised *Philip* Bacon of his free
tenement in *Langston*, after, &c.
and of which he complained
that he disseised him of one
messuage, 160 acres of land, 3
acres of meadow, and 10 acres
of furze, with the appurtenan-
ces, &c. And the said *John*
did not appear, nor give bail,
therefore it was adjudged, that
the Assize should be taken a-
gainst him for his default. The
Jury say upon their Oaths, that
the said *Philip* demised the said
tenements to one *Walter* Mar-
tell deceased for a term of
years, and the said *Walter*, be-
fore the expiration of the said
term, demised the said tene-
ments to the said *John* in fee.
Therefore upon consideration of
the statute of King *Edward*
Father of the King that now is
which provides, that in such
case, in the life of either of
them, the Assize of novel Dis-
seisin shall take place, it is ad-
judged, that the said *Philip* shall
recover against the said *John*
his Seisin of the said tenements
with the appurtenances, by view
of the recognitors of Assize, and
his damages, which are taxed
by the said Assize at 10 marks
and the said *John* was amerced

It appears by a Record, (b) that an appeal was brought in (b) 6. *Edw.* the county of *Limerick* before the Sheriff and Coroner by 2. rot. tur. *John Harold*, against *Hugh de Burgo*, for the death of *Ri-* *Berming.* *chard Harold*, his Son, and against *Philip Comin*, as accessory, upon which they were both outlawed at the same time; upon which the said *Philip* brought his writ of error; whereupon saith the Record, (the proceedings before the Coroner being long I omit to recite)

‘ Et ad sectam prædicti *Philippi*, filii *Philippi Comin* querentis, quod in appello prædicto error intervenit manifestus, quia prædictus *Johannis Harold* præmunitus non venit, et prædictus *Philippus* queritur, quod comitatus erravit in eo quod continetur in statuto Domini *Edwardi Regis*, Patris Domini Regis nunc *Westminster* primo, quod Appellans primo die attachiet Appellum suum tam versus Appellatum de facto, quam versus Appellatum de vi, auxilio, aut receptamento, sed cesset exigendum et utlagaria versus Appellatum de vi, auxilio, aut receptamento, quousque Appellatus de facto fuerit convictus. Comitatus vero uno eodemque die, scilicet primo die quo prædictus *Johannes* attachiavit se ad prosequendum Appellum prædictum, exigi fecit prædictum *Philippum*, et per illud exigendum utlagatus fuit, et ad quartum comitatum tunc sequentem, ubi ipse *Philippus* Appellatus fuit de vi et auxilio, &c. Et similiter comitatus

And at the suit of the said *Philip Fitz-Philip Comin*, the Appellant, that in the said Appeal a manifest error intervenes; for that the said *John Harold*, being summoned, did not appear, and the said *Philip* complains, that the county erred, for that it is contained in the statute of King *Edward*, Father to the King that now is, *Westminster* 1st. [3d of *Edw.* 1. Chap. 14.] that the Appellant shall the first day attach his Appeal as well against the Appellee in fact, as against the Appellee by force, aid, or receipt; but that the exigent and appeal shall stop against the Appellee by force, aid, or receipt, until the Appellee for the fact be attainted. But the county on one and the same day, namely, on the first day on which the said *John* attached himself to prosecute his said Appeal, caused the said *Philip* to be put on the exigent, and he was outlawed upon that exigent, and on the fourth county day then following, where the said *Philip* was appealed of force and aid, &c. And in like manner the county erred

' comitatus erravit in eo, quod
 ' consideratum fuit prædictum
 ' exigendum versus eum primo
 ' die, quo prædictus *Johannes*
 ' attachiavit se ad prosequen-
 ' dum Appellum prædictum;
 ' absque hoc, quod prius præ-
 ' ceptum fuisset attachiari præ-
 ' dictum *Philippum*, prout moris
 ' est, et petit errores prædictos
 ' corrigi, et sibi justitiam exhi-
 ' beri, &c. Et prædictus *Jo-*
 ' *hannes* non potest hoc dedi-
 ' cere; Ideo consideratum est,
 ' quod prædictum Appellum ir-
 ' ritetur et adnulletur, et utla-
 ' garia in personam prædicti
 ' *Philippi* ea occasione promul-
 ' gata tanquam erronea, pro
 ' nullo habeatur, et comitatus
 ' pro falso judicio in misericor-
 ' dia."

erred in this, that the said exi-
 gent against him was adjudged
 the first day, on which the said
John attached himself to prose-
 cute the said Appeal: With-
 out that the precept first issued
 for attaching the said *Philip*,
 as the custom is, and he de-
 manded that the said errors
 should be amended, and that
 he should have justice, &c.
 And the said *John* could not
 deny this; therefore it was ad-
 judged, that the said Appeal
 should be disannulled and made
 void, and the outlawry against
 the person of the said *Philip*
 proclaimed upon that occasion
 should, as erroneous, be taken
 for nothing, and the county
 amerced for their false judg-
 ment.

(c) 2. Infit.

Although *Coke* (c) upon this chapter says, that this is a
 declaratory law, and so of the statute of *Westminster* 2. chap-
 25, upon which the former Record hath been cited; yet
 the only end of citing these Records being to prove, that
 the Laws of *England* were received and executed in *Ireland*
 before they were there confirmed by Parliament, nothing
 can more plainly prove this point (if there were no other but
 only these) than these two last mentioned Records, by which
 it is most apparent, that the statutes of *Westminster* 1. and
Westminster 2. were there in force, and executed, before
 any such statutes of confirmation were made in *Ireland*, as
 the Author talks of.

The Author saith, that such statutes as have been made
 in *England* since the 12th of King *John*, as are positive, or
 any ways altering or adding to the Common Law, were not
 of force in *Ireland*, till they were enacted in *Ireland* by
 Parliament. Let us therefore yet see further his mistakings.

The statute of *Westminster* 2. chap. 36. made 13th of
Edw. 1. which provides against Seneschalls, Lords of Courts,
 &c. which procure any to sue in their Courts Barons,
 County

County Courts, &c. or whereby the subject is vexed, and molested by such procurement, or maintenance, adds a greater punishment for the delinquent, than was at Common Law, and gives treble damages, where before the Common Law gave but single damages, and that the party offending shall be ransomed at the King's suit, as appears in *Coke*. (d) And this law was executed in *Ireland* before any (d) 2. Instit. statute was made there to confirm it; as appears by the following Record.

Adhuc de Placitis querelarum apud *Cork* coram *Johanne Wogan*, Justiciario *Hiberniæ*, die lunæ proximè post festum Sancti Gregorii Papæ anno 3^o *Edw.* 2di.

Corke. fs. 'Convictus est per
' Juratam, in qua *Nicholaus* filius *Gulfridi* querens,
' et *Mauritius le Archdekin*
' Miles se posuere. Quod cum
' diversæ diffentiones et discor-
' diæ a diu ortæ fuissent inter
' prædictum *Mauritium* et *Nicholaum*, dictus *Mauritius*,
' Seneschallus terrarum *Mauritii de Carew de Castlecorth*,
' causâ vindictæ capiendæ de
' prædicto *Nicholao*, ipsum *Nicholaum* Malitiosè per graves
' distinctiones, et alias vexationes, &c. venire facit sæpissimè ad Curiam dicti *Mauritii de Carew*, ubi nulla querela
' per aliquam partem de eo
' querente in eadem Curia habebatur, et similiter sæpe procuravit aliàs diversos homines
' conqueri de prædicto *Nicholao*, et falsas querelas versus ipsum
' excitare in Curia prædicta *Mauritii de Carew*, ubi ipse
' *Nicholaus* nullam transgressio-

' nem

As yet of Pleas of the Crown at *Cork* before *John Wogan*, Justice of *Ireland*, on Monday next after the feast of Saint Gregory the Pope, in the 3d year of *Edward* the 2d.

Cork. fs. He was found guilty Anno 3^o. *Ed.*
by a Jury, in which *Nicholas* 2. rot. 30.
Fitz-Geffry Plaintiff, and *Maurice le Archdekin* Knight appeared. That whereas divers diffensions and discords had for a long time arisen between the said *Maurice* and *Nicholas*, the said *Maurice*, Seneschal of the lands of *Maurice de Carew of Castlecorth*, in order to take revenge of the said *Nicholas*, maliciously caused the said *Nicholas* by grievous distresses, and other vexations, very often to appear at the Court of the said *Maurice de Carew*, where no complaint was by any person alledged against him; and likewise often procured divers other men to complain of the said *Nicholas*, and to move false complaints against him in the said Court of *Maurice de Carew*; whereas the said *Nicholas* committed no trespass, nor was obliged in any debt: for which
G cause

nem fecit, nec in aliquo de-
 bito tenebatur, per quod præ-
 dictus *Nicholaus* prædictum
Mauritium le Archdekin per
 breve Domini Regis de trans-
 gressione implacitavit coram
 Justiciario de Banco *Dublin*,
 coram quo per Juratam pa-
 triæ inter prædictum *Nicho-*
laum querentem, & prædic-
 tum *Mauritium le Archdekin*,
 prædictus *Mauritius le Arch-*
dekin convictus est, quod
 prædictum *Nicholaum* maliti-
 osè vexavit, et diversas inju-
 rias & gravamina ei intulit,
 ad grave damnum ipsius *Ni-*
cholai in 40 marcas: Quod
 quidem placitum inter ipsum
Nicholaum et *Mauritium* pla-
 citatum ad iudicium, &c.
 adhuc pendet coram prædicto
 Justiciario de Banco *Dublin*,
 &c. Et quod prædictus
Mauritius Le Archdekin prop-
 ter injurias et gravamina præ-
 dicta, unde inter prædictum
Nicholaum et *Mauritium* sunt
 ad iudicium coram Justicia-
 rio de Banco, &c. eidem *Ni-*
cholao diversas et multiplices
 injustas et criminosas vexati-
 ones et gravamina intulit jam
 de novo in curia prædicti
Mauritii de Carew, sub co-
 lore *Ballivæ* suæ, &c. Et
 quod idem *Mauritius Le*
Archdekin malitiosè procura-
 vit diversos homines tam de
 Domino prædicti *Mauritii de*
Carew, quam de partibus ad-
 jacentibus, formare falsas
 querelas, et sequi versus præ-
 dictum *Nicholaum* in formâ
 prædictâ

cause the said *Nicholas* implead-
 ed the said *Maurice le Archde-*
kin by the King's writ of tres-
 pass before the Justice of the
 Bench at *Dublin*, before whom
 by a Jury of the country im-
 panelled between the said *Ni-*
cholas, the Plaintiff, and the
 said *Maurice le Archdekin*, the
 said *Maurice le Archdekin* was
 found guilty for maliciously
 vexing the said *Nicholas*, and
 for charging him with divers
 injuries and grievances, to the
 damage of the said *Nicholas* of
 40 marks: which suit implead-
 ed between the said *Nicholas*
 and *Maurice* to judgment, &c.
 yet depends before the said
 Justice of the Bench in *Dublin*,
 &c. And that the said *Maurice*
le Archdekin, since the said in-
 juries and grievances, which
 have proceeded as far as judg-
 ment between the said *Nicholas*
 and *Maurice* before the Justice
 of the Bench, &c. has now of
 late brought on the said *Nicho-*
las divers and manifold unjust
 and malicious vexations and
 grievances in the Court of the
 said *Maurice de Carew*, under
 colour of his Bailiwick, &c.
 and that the said *Maurice le*
Archdekin maliciously procured
 divers men, as well out of the
 Lordship of the said *Maurice de*
Carew, as out of the parts ad-
 joining, to frame false com-
 plaints, and to prosecute them
 against the said *Nicholas*, in
 form aforesaid, before himself
 the said *Maurice le Archdekin*
 in the said Court of *Maurice de*
Carew

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' prædictâ coram ipso *Mauritio*
 ' *Le Archdekin* in Curia præ-
 ' dicti *Mauritii de Carew* de
 ' *Castlecorth*, ut sic iram et
 ' malam voluntatem suam ver-
 ' sus prædictum *Nicholaum* ne-
 ' quiter possit effundere, &c.
 ' per quod prædictus *Nicholaus*
 ' deterioratus est, et damnum
 ' habet ad valentiam decem
 ' Marcarum, præter damnum,
 ' quod prius sustinuit per pla-
 ' cita inter ipsos coram dicto
 ' Justiciario de Banco. Ideo
 ' consideratum est, quod præ-
 ' dictus *Nicholaus* recuperet
 ' versus prædictum *Mauritium*
 ' 10 marcas, damna sua, quæ
 ' taxantur per Curiam in tri-
 ' plum juxta formam Statuti,
 ' &c. viz. 30 marcas: Sed li-
 ' ceat prædicto *Nicholao* recu-
 ' perare versus prædictum *Mau-
 ' ritium Le Archdekin* de pla-
 ' cito quod pendet coram præ-
 ' dicto Justiciario de Banco, et
 ' prædictus *Mauritius Le Arch-
 ' dekin* Committetur Gaolæ.
 ' Postea prædictus *Mauritius*
 ' fecit finem, prout patet in
 ' Rotulo Placitorum.'

Carew of *Castlecorth*, that by
 that means he might lewdly
 pour out his revenge and evil
 will upon the said *Nicholas*, &c.
 by which the said *Nicholas* is
 damaged and injured to the va-
 lue of 10 Marks, besides the
 damage, which he before sus-
 tained by the Pleas between
 them before the said Justice of
 the Bench. Therefore it is
 adjudged, that the said *Nicho-
 las* should recover against the
 said *Maurice* 10 Marks for da-
 mages, which are taxed by the
 Court to treble as much ac-
 cording to the form of the sta-
 tute, &c. namely, to 30 Marks.
 Nevertheless, that it should be
 lawful for the said *Nicholas* to
 recover against the said *Maurice*
le Archdekin in the Suit which
 depends before the said Justice
 of the Bench; and the said
Maurice le Archdekin shall be
 committed to prison. After-
 wards the said *Maurice* was
 fined, as appears in the roll of
 Pleas.

The statute of *Acton Burnell*, made 11 *Edw. 1.* wherein
Ireland is not named, and the statute of 13 *Edw. 1. de*
Mercatoribus, wherein *Ireland* is named, are both statutes,
 which doubtless the Author, and all others, will confess to
 be introductory statutes, and which do alter the Common
 Law; both which statutes were received and executed in
Ireland long before any statute was made there to confirm
 them, as by the ensuing records appears.

Anno 34.
Edw. 1. rot.
26. in Berm.
Tower.

Adhuc de Communibus Placitis apud *Dublin*, coram *Johanne Wogan* Justiciario *Hiberniæ*, 15^o. *Michael*, Anno Regni Regis *Edw.* 34.

Anglia, fs. ' Dominus Rex
' mandavit breve suum hic,
' &c. in hæc verba. *Edwardus*,
' &c. dilecto & fideli suo *Johanni Wogan*, Justiciario suo
' *Hiberniæ*, vel ejus locum tenenti, salutem. Quia *Johannes* de *Burgefs*, aliquando
' Ballivus dilecti & fidelis nostri
' *Otonis de Grandifono* in *Hiberniâ*, coram *Radulpho de Sandewico*, nuper custode civitatis nostræ *London*, & *Johanne de Banquelle*, Clerico nostro ad recognitiones debitorum in eadem civitate accipiendas deputato, recognovit se debere prædicto *Otoni* 200*l.* unde ei solvisse debuit ad festum purificationis Beatae Mariæ, Anno Regni nostri 19^o. quinquaginta *Marcas*, et ad festum nativitatis Sancti *Johannis* Baptistæ proximè sequentem 50 *Marcas*, et sic de anno in annum, et termino in terminum proximè sequentem, ad eosdem terminos quolibet termino 50 *Marcas*, quousque prædictæ 200*l.* persolutæ fuere, et eas ei nondum solvit, ut dicit. Vobis mandamus, sicut alias vobis mandavimus, quod omnes terras & tenementa, quæ fuere prædicti *Johannis* anno Regni nostri 13^o. quo anno prædictus debitor recognovit, ad quorumcunque manus in Bal-

As yet of the Common Pleas at *Dublin* before *John Wogan*, Justice of *Ireland*, on the Quindene of St. *Michael*, in the 34th year of the reign of King *Edward*.

Anglia, fs. The King sent his writ here in thete words. *Edward*, &c. to his beloved and faithful subject *John Wogan*, his Justice of *Ireland*, or to his deputy, greeting. Whereas *John de Burgefs*, sometime Bailiff of our beloved and faithful *Otto de Grandifon* in *Ireland*, before *Ralph de Sandewich*, late keeper of our City of *London*, and *John de Banquelle*, deputed our Clerk for taking Recognizances of debts in the said City, acknowledged himself to be indebted to the said *Otto* in 200*l.* of which he ought to have paid him on the feast of the Purification of the Blessed Virgin *Mary*, in the 19th year of our Reign, 50 marks, and on the feast of the Nativity of St. *John* the Baptist next following, 50 marks, and so from year to year, and term to term next following the said feasts, at each term 50 marks, until the said 200*l.* was paid, and he has not yet paid him, as he says; we command you, as before we commanded you, to cause to be delivered to the said *Otto*, or his Assigns, by extent, and at a reasonable rate, all the lands and tenements which belonged to the said *John* in the 13th year of our reign, in which year the said debtor entered into the said

livâ

livā vestra devenerunt, per
 feoffmentum, aut alio modo,
 nisi terrę & tenementa illa ad
 hæredem ipsius *Johannis* in-
 fra ætatem existentem de-
 venerunt, per extantum et
 rationabile pretium deliberari
 facias prædicto *Ottoni*, vel
 suo Assignato, habenda no-
 mine liberi tenementi, secun-
 dum formam statuti nostri
 apud *Adon Burnell* et *West-*
monasterium de hujusmodi re-
 cognitionibus editi; quouique
 prædicto *Ottoni* de prædictis
 debitis plenariē fuisset satis-
 factum, simul cum damnis et
 Custagiis necessariis et ratio-
 nabilibus, ut in laboribus,
 sectis, dilationibus, & expen-
 sis. Et quid indē feceris scire
 facias nobis a die *S. Michaelis* in 15 dies ubicunque tunc
 fuerimus in *Angliā*. Et scia-
 tis, quod nisi hoc mandatum
 nostrum plenē exequi facias,
 graviter amerciaberis, et ha-
 beas ibi extantum indē fac-
 tum, et hoc breve. Teste
Richardo de Brabanzon apud
Westmonasterium 14^o. die
 Maji, Anno Regni nostri
 300. ——— Prætextu cujus
 mandati Justiciarius hic, &c.
 processum et extantum inde
 factum in formā quæ sequitur,
 &c. Extantum factum apud
 Cassel die lunæ in festo Sancti
Jacobi Apostoli, Anno Regni
 Regis *Edwardi* 34^o. coram
Johanne Wogan, Justiciario
Hiberniæ, ad mandatum Do-
 mini Regis de terris & tene-
 mentis, quæ fuere *Johannis*
 de Burgeis, aliquando Ballivi
Otonis

said Recognizance, into whose
 ever hands in your Bailiwick
 they have come either by Fe-
 offment or otherwise, unless the
 said lands and tenements have
 come to the heir of the said
John being under age; to hold
 to the said *Otto* as his freehold,
 according to the form of our
 statute made at *Adon Burnell*,
 and *Westminster*, concerning
 such Recognizances, until the
 said *Otto* be fully satisfied for
 the said debts, together with
 his necessary and reasonable
 costs and damages, namely in
 his labours, suits, delays, and
 expences. And whatever you
 do herein, you shall signify to
 us on the Quindene of *St. Mi-*
chael, where ever we shall then
 be in *England*. And know ye,
 that unless you cause this our
 Mandate to be fully executed,
 you shall be grievously amerced;
 and send there to us the extent
 you shall make thereon; and
 this Writ Witness *Richard de*
Brabanzon at *Westminster*, the
 14th day of *May*, in the 30th
 year of our Reign.—By means
 of which Mandate the Justice
 here, &c. the proceffe and ex-
 tent made thereon in the form
 following, &c. An extent made
 at *Cassel* on *Monday*, on the
 feast of *St. James* the Apostle,
 in the 34th year of the reign
 of King *Edward*, before *John*
Wogan, Justice of *Ireland*, by
 command of our Lord the King,
 of the lands and tenements of
John de Burgeis, sometime Bai-
 liff of *Otto de Grandison* in the
 13th year of our Lord the
 King,

‘ *Ottonis de Grandifono*, Anno
 ‘ Regni Domini Regis 130. per
 ‘ Juratam subscriptam (viz.)
 ‘ *Johannem de London*, *Stepha-*
 ‘ *num*, &c. (and so names the
 ‘ rest) qui Juratures dicunt su-
 ‘ per Sacramentum suum, quod
 ‘ prædictus *Johannes de Bur-*
 ‘ *gefs* Anno Regni Regis 130.
 ‘ habuit apud *Kilconnell* 100
 ‘ Acras terrarum arrabilium,
 ‘ quarum quælibet Acra valet
 ‘ per Annum 4*d*, &c.’ and so
 the Record having mentioned
 many particular parcels of land,
 whereof the said *Burgefs* was
 seized, and their yearly values,
 after saith, ‘ et breve prædic-
 ‘ tum indorsatum in formâ quæ
 ‘ sequitur liberatur *Radulpho de*
 ‘ *Burgo*, Attornato prædicti *Ot-*
 ‘ *tonis*, qui sequitur pro præ-
 ‘ dicto *Ottoni*, ad deferendum
 ‘ in *Angliam*, &c. Terræ et
 ‘ tenementa, quæ fuere *Johan-*
 ‘ *nis de Burgefs* Anno 130. se
 ‘ extendunt, sicut continetur in
 ‘ extento inde facto, huic brevi
 ‘ confuto, et liberatur præfato
 ‘ *Ottoni* secundum formam hu-
 ‘ jus brevis; nec est inquisitum
 ‘ de damnis, quia hoc manda-
 ‘ tum id non requirit: et sunt
 ‘ tenementa illa in manibus di-
 ‘ versorum per feoffmenta.’

King, by the under-written
 Jury, viz. *John de London*,
Stephen, &c. (and so names
 the rest) which Jury find upon
 their oaths, that the said *John*
de Burgefs in the 13th year of
 the reign of the King, had 100
 acres of arable land at *Kilcon-*
nell, each of which acres is
 worth 4*d*. a year, &c. (and so
 the Record having mentioned
 many particular parcels of land,
 whereof the said *Burgefs* was
 seized and their yearly values,
 after saith) and the said Writ
 indorsed in the following form
 was delivered to *Ralph de Bur-*
go, Attorney of the said *Otto*,
 who prosecutes for the said
Otto, to carry into *England*,
 &c. The lands and Tenements
 of *John de Burgefs* in the 13th
 of the King were extended, as
 is contained in the extent made
 thereof, and annexed to this
 Writ, were delivered to the
 said *Otto*, according to the form
 of this Writ, nor was any In-
 quisation had of the damages,
 because the said Mandate doth
 not require it; and the said
 Tenements are in the hands of
 divers people by Feoffments,
 &c.

In the 3d year of *Edw. 2d* the said *Otto de Grandifon*
 brought an assize against divers for being disseised of the said
 lands, which he had by the aforesaid extent; which, though
 it be somewhat long, yet doth much clear the doubt, whe-
 ther the laws of *England* were of force in *Ireland* or no be-
 fore any statute made there to confirm them.

Adhuc

Adhuc de Juratis et Assisis apud *Cassel* coram Justitiario ad placita Justitiario *Hiberniæ* assignato audienda et terminanda, die lunæ proximè post festum Sancti *Ambrosij* Anno Regni Regis *Edw.* fil. Regis *Edw.* 30.

Tipperary ss. 'Assisa venit recognitura si *Richardus de Valle, Walterus de Brett, Mabilia* filia ejus, *Johannes*, filius *Thomæ Bigod, Philippus Hacket* et, *Willielmus de Burges*, & *Henricus*, filius *Henrici O Kellie*, injustè disseisiverunt *Ottone* de *Grandison* de libero tenemento suo in *Kilconnell*, &c. et unde queritur quod disseisiverunt eum de uno Messuagio, 5 Carrucatis terræ, &c. cum pertinentiis, &c. Et prædictus *Rich. de Valle, Walter de Bret*, personaliter, et *Philippus Hacket* non venit, sed quidam *Gervasius de Bailie* respondet pro eo, tanquam ejus Ballivis, et *Richardus de Valle* respondet. ut tenens de uno Messuagio, et unâ Carrucatâ terræ, &c. in *Kilconnell*, et *Walterus* ut tenens de 4 Acris terræ in *A*, et *Philippus Hacket*, tenens de Medietate Carrucatæ terræ in *A*, dicunt, quod ipsi nullam Injuriam aut disseisinam ei inde fecerunt. Quia dicunt, quod *Thomas Bigod*, Pater dicti *Johannis*, cujus hæres ipse est, tenuit de ipsis prædicta tenementa per servitium, quæ daant Custodiam, &c. et Obiit inde tenens eorum, &c. post cujus mortem ipsi intraverunt tenementa prædicta nomine Custodum, ratione

As yet of Juries and Assizes Anno 3d. *Edw.* 2. rot. 63. in tur. *Berming.*
at *Cassel* before the Justice appointed to hold and determine Pleas by the Justice of Ireland, on the Monday next after the feast of Saint *Ambrose*, in the 3d year of the Reign of King *Edward*, Son of King *Edward*.

Tipperary ss. An Assize appeared to enquire, whether, *Richard de Valle, Walter de Brett, Mabilia* his Daughter, *John*, Son of *Thomas Bigod*; *Philip Hacket, William de Burges*, and *Henry* Son of *Henry O-Kellie*, unjustly, &c. disseized *Otto de Grandison* of his Freehold in *Kilconnell*, &c. and of which he complains, that they disseized him of one Messuage, five Carrucates of land, &c. with the Appurtenances, &c. And the said *Richard de Valle, Walter de Brett*, appeared personally, and *Philip Hacket* did not appear, but one *Gervase de Bailie* answered for him, as his Bailiff, and *Richard de Valle* answered, as Tenant of one Messuage, and one Carrucate of land, &c. in *Kilconnell*, and *Walter*, as tenant of 4 Acres of land in *A*, and *Philip Hacket* tenant of a moiety of a Carrucate of land in *A*, say, that they did not commit any injury or disseisin on him in the Premises: because they say, that *Thomas Bigod*, Father of the said *John*, whose heir he is, held from them the said Tenements by services, which gave the Guardianship, &c. and died tenant thereof, to them, &c. After whose death they entered into the said Tenements, in the name of Guardians,

' ratione minoris ætatis prædicti
 ' *Johannis filii Thomæ Bigod*,
 ' absque aliquâ injuriâ sive dis-
 ' seisinâ eidem *Ottoni* inde faci-
 ' enda, et hoc petunt quod in-
 ' quiratur per assisam. Et præ-
 ' dicta *Mabilia*, tenens de 20
 ' acris terrarum in *M.* dicit,
 ' quod ipsa recuperavit prædic-
 ' tas 20 Aclas terrarum, ut do-
 ' tem suam, coram Justiciario
 ' de Banco *Dublin*, de libero
 ' tenemento quod fuit *Thomæ*
 ' *Bigod* quondam viri sui, &c.
 ' et quod ipsa nullam injuriam
 ' aut disseisinam eidem *Ottoni*
 ' inde fecit, et hoc petit quod
 ' inquiratur per assisam. Et
 ' prædictus *Johannes*, filius *Tho-*
 ' *mæ Bigod*, non venit, sed *Wal-*
 ' *terus le Brett* responderet pro eo
 ' tanquam ejus Ballivus, et di-
 ' cit quod prædictus *Thomas*
 ' *Bigod*, pater prædicti *Johan-*
 ' *nis*, cujus hæres, &c. obiit sei-
 ' situs de prædicto tenemento,
 ' post cujus mortem ipse *Jo-*
 ' *hannes* per custodes suos præ-
 ' dictos intravit tenementa præ-
 ' dicta, ut filius & hæres ipsius
 ' *Thomæ*; absque aliquâ inju-
 ' riâ aut disseisinâ alicui inde
 ' faciendis, et hoc petit quod
 ' inquiratur, &c. Et *Willielmus*
 ' *de Burges* venit et responderet,
 ' ut tenens de 40 Acris, &c. in
 ' *L.* et dicit, quod ipse habuit
 ' ingressum in prædicta tene-
 ' menta per prædictum *Otto-*
 ' *nem*, et non per disseisinam, &
 ' hoc petit, &c. Et *Hen. O-*
 ' *Keley* venit & dicit, quod ipse
 ' nil habet, nec habere clamat,
 ' &c. nisi sex denarios redditus
 ' per

' dians, by reason of the minority
 ' of the said *John*, Son of *Thomas*
 ' *Bigod*, without any injury or
 ' disseisin done to the said *Otto*,
 ' and this they demand should be
 ' inquired into by the Jury And
 ' the said *Mabilia*, tenant to 20
 ' Acres in *M.* says, that she reco-
 ' vered the said 20 Acres of land,
 ' as her Dower, before the Jus-
 ' tices of the Common Pleas in
 ' *Dublin*, of the free Tenement
 ' of the said *Thomas Bigod*, for-
 ' merly her husband, &c. And
 ' that she committed no injury nor
 ' disseisin on the said *Otto*, and
 ' this she demands should be in-
 ' quired of by the Jury. And
 ' the said *John*, Son of *Thomas*
 ' *Bigod*, did not appear; but
 ' *Walter le Brett* answered for
 ' him, as his Bailiff, and said,
 ' that the said *Thomas Bigod*, Fa-
 ' ther of the said *John*, whose
 ' heir he is, &c. died seized of
 ' the said Tenements, after whose
 ' death, the said *John*, by his
 ' Guardians aforesaid, entered in-
 ' to the said Tenements, as Son
 ' and Heir of the said *Thomas*,
 ' without any injury or disseisin
 ' done to any body thereby, and
 ' this he demands should be in-
 ' quired, &c. And *William de*
 ' *Burges* appears, and answers,
 ' as Tenant of 40 Acres, &c. in
 ' *L.* and says, that he made his
 ' entry into the said Tenements
 ' by the said *Otto*, and not by
 ' disseisin, and this he demands,
 ' &c. And *Henry O-Keley* ap-
 ' pears, and says, that he has no-
 ' thing, and claims nothing, &c.
 ' only six pence rent by the year,
 ' and

per Ann. et quod ipse nullam injuriam, &c. et hoc petit, &c. Et prædictus *Otto* dicit, quod ipse tenuit tenementa prædicta per considerationem & liberationem Curiae Domini Regis, pro eo quod quidam *Johannes de Burgefs*, quondam tenens prædictorum tenementorum, dudum in Curia Domini Regis in Angliâ cognovit se debere eidem *Otoni* 200l. Argenti per formam Statuti Mercatoris, et virtute illius recognitionis prædicta tenementa sibi liberata fuere per consensum Curiae Domini Regis, tenenda nomine liberi tenementi, juxta formam Statuti prædicti, donec de prædictis 200l. simul cum damnis, custagiis rationabilibus, et necessariis, ut in laboribus, sectis, & expensis, sibi satisfactum fuisset, & sic dicit, quod ipse fuit in bonâ & pacificâ seisinâ de prædictis tenementis, ut de libero tenemento, donec per prædictum *Richardum* et alios injustè & sine judicio fuit disseisitus, et hoc petit quod inquiratur per Assisam. Juratores dicunt super Sacramentum suum, quod prædictus *Johannes de Burgefs* quondam tenuit prædicta tenementa, & tenebatur prædicto *Otoni* in redditione cujusdam compoti de tempore quo fuit Receptor denariorum ipsius *Otonis* in Hiberniâ, propter quod accessit ad ipsum *Otonem* in Angliâ, et reddito Compoto suo, remansit in arrearagiis versus ipsum *Otonem* in 200l. &c. quas cognovit se debere prædicto

and that he no injury, &c. And demands, &c. And the said *Otto* says, that he held the said Tenements by Judgment and delivery of the Court of our Lord the King; because that one *John de Burgefs*, formerly Tenant of the said Tenements, long since in the Court of our Lord the King acknowledged that he owed to the said *Otto* 200l. in silver by form of a Statute Merchant, and by vertue of the said Recognizance the said Tenements were delivered to him by judgment of the Court of our Lord the King, to hold as his Freehold, according to the form of the said Statute, until he should be satisfied for the said 200l. together with his reasonable and necessary damages and costs, as in labours, suits, and expences, and so he says, that he was in the good and peaceable seisin of the said Tenements, as of his Freehold, until he was unjustly, and without judgment, disseised by the said *Richard*, and others, and this he demands should be inquired of by the Jury. The Jury say upon their Oaths, that the said *John de Burgefs* formerly held the said Tenements, and was bound to the said *Otto* to render him a certain account for the time he was Receiver of the money of the said *Otto* in Ireland; for which end he came to the said *Otto* into England, and, having made up his accounts, he remained in arrears to the said *Otto* in 200l. &c. which he acknowledged to owe to the said *Otto* according to the form

dicto *Ottoni*, juxta formam
 Statuti pro Mercatoribus editi.
 Et quia idem *Johannes* terminos
 solutionis non observavit,
 Dominus Rex ad sectam ipsius
Ottonis per breve Domini Regis
 sub magno sigillo *Angliæ*,
 tenentibus scire fecit prædictorum
 tenementorum, quod essent
 ad certum diem in *Angliâ* eidem
Ottoni responsuris, quare dicta
 pecunia de tenementis prædictis
 levare non debere ad opus prædicti
Ottonis. Et quia nulli Tenentes
 venire respondere eidem *Ottoni*
 in hac parte, Consideratum fuit,
 quod prædicta tenementa, ad
 quorumcunque manus devenissent,
 liberarentur eidem *Ottoni*,
 tenenda nomine liberi tenementi,
 donec sibi fuisset de prædictis
 debitis, ut prædictum est, satisfactum.
 Quæ quidem tenementa in hac
 forma liberata fuere prædicto
Ottoni extra manum Magistri
Thomæ Bigod, tunc tenentis eorum
 tenementorum, cui idem *Otto*
 per seisinam inde habitam
 tenementa illa concessit per
 extentum eorundem, et post mortem
 prædicti *Thomæ Bigod*, prædicti
Richardus, *Walterus*, et *Philippus*
 clamantes Custodiam tenementorum
 prædictorum ratione Minoris
 ætatis prædicti *Johannis*, filii
Thomæ Bigod, intravere tenementa
 prædicta, et ipsum *Ottonem*
 inde ejecerunt. Et dicunt, quod
 prædictus *Thomas Bigod* nunquam
 fuit Tenens, nec seiscitus de
 tenementis prædictis. Ideo
 consideratum est, quod

form of the Statute made for
 Merchants. And because the
 said *John* did not observe his
 terms of payment, our Lord the
 King, at the suit of the said
Otto, by his Writ under the
 Great Seal of *England*, gave
 notice to the Tenants of the
 said Tenements, that they should
 appear at a certain day in *England*
 to answer the said *Otto*,
 why the said money should not
 be levied out of the said Tenements,
 to the use of the said *Otto*.
 And because none of the
 Tenants appeared to answer
 the said *Otto* on this occasion,
 it was adjudged, that the said
 Tenements, into whose ever hands
 they had come, should be delivered
 over to the said *Otto*, to be held
 by him as his Freehold, until he
 should be satisfied for the said
 debts, as aforesaid. Which said
 Tenements were in this form
 delivered to the said *Otto* out of
 the hands of Master *Thomas Bigod*,
 then Tenant to the same, to whom
 the said *Otto* by seisin thereof
 granted the said Tenements by
 extent of them; and after the
 death of the said *Thomas Bigod*,
 the said *Richard*, *Walter*, and
Philip, claiming the Wardship
 of the said Tenements, by reason
 of the Minority of the said
John, Son to the said *Thomas Bigod*,
 entered into the said Tenements,
 and ejected the said *Otto* thereout.
 And they say, that the said
Thomas Bigod was never Tenant,
 nor seized of the said Tenements.
 Therefore it is adjudged, that the
 said *Otto* should

' quod prædictus *Otto* recupe-
 ' ret Seisinam suam versus præ-
 ' dictos *Richardum, Walterum,*
 ' *Mabilliam, et Philippum,* de
 ' prædictis tenementis, cum per-
 ' tinentiis, per visum recogni-
 ' torum, &c. et Damna sua,
 ' quæ taxantur versus prædic-
 ' tum *Richardum* ad 3l. 6s. 8d.
 ' et versus prædictos *Walterum*
 ' et *Mabilliam* ad 20s. & ver-
 ' sus prædictum *Johannem* ad
 ' 10s. 8d. Et prædicti *Richar-*
 ' *dus, Walterus, Mabillia, Jo-*
 ' *bannes, filius Thomæ Bigod,*
 ' et *Philippus,* in Misericordia.
 ' Et prædictus *Otto* in Curia
 ' pro falso Clamore versus præ-
 ' dictos *Willielmum & Henri-*
 ' *cum, &c. & Willielmus & Hen-*
 ' *ricus* eant sine die. Et Curia
 ' *Johannem, filium Thomæ Bi-*
 ' *god,* pardonavit, quia infra
 ' ætatem, &c. — Damna 4l.
 ' 17s 4d.'

should recover his Seizin against
 the said *Richard, Walter, Ma-*
bilia, and Philip, of the said
 Tenements, with the Appurte-
 nances, by view of the Recog-
 nitors, &c. and his damages,
 which are taxed against the said
Richard at 3l. 6s. 8d. and a-
 gainst the said *Walter and Ma-*
bilia at 20s. and against the said
John at 10s. 8d. and that the
 said *Richard, Walter, Mabilia,*
John, the Son of Thomas Bigod,
 and *Philip* be amerced. And
 the said *Otto,* for his false chal-
 lenge in Court against the said
William and Henry, &c. and
William and Henry to go with-
 out day. And the Court par-
 doned the said *John, the Son of*
Thomas Bigod, because he was
 under age ——— Damages
 4l. 17s. 4d.

By these records it appears, that *Ireland* antiently was so
 far from being accounted a Kingdom separated and divided
 from the Government of *England,* that it was esteemed in
 the nature of a County belonging to *England,* and the Jus-
 tice of *Ireland* but, as it were, a kind of Sheriff to execute
 the process sent out of the courts of Justice of *England.* For
 the recognisance was acknowledged in *England,* which bound
 the land in *Ireland;* the process upon that recognisance was
 directed to the Justice of *Ireland,* to extend all the lands,
 &c. of the said *John Burgefs.* Quæ anno prædicto debiti
 recogniti, ad quorumcunque manus in Ballivâ vestra deven-
 runt, — ' which on the said year of the said recognisance
 acknowledged, came into any hands within your Balliwick.'
 That if he did not, he should be grievously amerced; and
 this writ was thereupon fully executed by the said Justice,
 and returned into *England.* That (as appears upon the Re-
 cord of the assize brought for these lands upon that statute
 of 13 *Edw. 1.*) scire facias's out of *England* were directed to
 the

the tenants of the lands in *Ireland*, before the extent issued, returnable in *England*. Therefore doubtless *Ireland* was subject to the laws made in *England*, which were there executed before any act made in *Ireland* to confirm them.

Upon the granting of lands in *Mortmain* in *Ireland*, by the inheritor of the lands there, to any religious House in *England*, the writ of ad quod damnum was usually sent out of the Chancery of *England*, directed to the Justice of *Ireland*, ad inquirendum per probos, &c. de ballivâ vestrâ, — ‘to enquire by lawful men of your Balliwick,’ returnable in *England*, which were executed by the said Justice, and returned into *England*, as by the records of 6 *Edw.* 2. and 2d *Edw.* 2. and many others of the like kind, appears.

6. *Edw.* 2.
rot. 46. in
offici. rem.
regis, and 2.
Edw. 2. rot.
2. in tur.
Berming.

In anno 26 *Edw.* 1. Rot. 12. in *Officio Remem. Regis Scaccarii*.—In the chief Remembrancer’s Office of the Exchequer, *John*, the Son of *William* of *Sonebridge*, was upon the acknowledgment of a debt before *Robert le Bree*, Mayor of *Dublin*, and *Henry le Compton*, then Clerk of our Lord the King for the taking of recognisances for debts by vertue of the statute de Mercatoribus, taken and committed to prison till the debts were payed.

(e) 1st. Inst.
290. a.

By the statute of *Aston Burnell*, 11 *Edw.* 1, if the Appraisers do appraise the moveable goods of the Debtor at too much, they themselves shall take the goods, and presently answer the Creditor his debt; which course cannot be taken upon an execution by elegit, or upon a recovery for debt or damages; nor doth it extend to a recognisance in court, but only to those 2 statutes of *Aston Burnell*, and de Mercatoribus, as *Coke* (e) says, and yet that branch in that statute of *Aston Burnell* hath been executed in *Ireland* before any statute made there to confirm it, as appears by the record following.

6. *Edw.* 2.
Rot. 46. in
offici. rem.
Communi Placita apud *Dublin*
in coram *Edmundo le Botiller*,
Custode terræ *Hiberniæ*, in Oc-
tabis purificationis B. V. M. an-
no Regni Regis *Edwardi*, filii
Regis *Edwardi* 6.

Common Pleas held at *Dublin*
before *Edmund le Botiller*, Custos of the land of *Ireland*, on the octaves of the purification of the B. V. *Mary*, in the 6th year of King *Edward*, son of K. *Edw.*

Dublin,

liby

Dublin fs. ' Præceptum fuit
 ' vicecomiti, quod illos octo
 ' cranocos frumenti, pretii cu-
 ' juslibet cranoci 4s. et illos sex
 ' cranocos avenarum, pretii cu-
 ' juslibet cranoci 40d. quos nu-
 ' per in manum Domini Regis
 ' cepit, et penes se detinet pro
 ' defectu emptorum, prout man-
 ' datum est *Edmundo le Bottil-*
 ' *ler*, Custodi terræ *Hiberniæ*,
 ' in crastino purificationis B. V.
 ' proximè præteritæ, per ratio-
 ' nabile pretium eorundem, sine
 ' dilatione liberari faciat *Rad-*
 ' *ulpho de Willeby* usque ad
 ' appretiationem 48s. quos i-
 ' dem *Radulphus* in cuius hic,
 ' &c. coram prædicto Custode
 ' apud *Dublin*, per considerati-
 ' onem ejusdem curiæ, &c. re-
 ' cupervit versus prædictum
 ' *Johannem*. Provisio tamen,
 ' quod Appretiatores, qui bona
 ' illa et catalla appretiare debu-
 ' erunt, taliter ea appretiave-
 ' runt, sicut ea recipere volue-
 ' runt, si prædictus *Radulphus*
 ' ea ad hujusmodi pretium re-
 ' cipere recusavit, et residuum
 ' prædicti debiti, si quid fuerit,
 ' de aliis bonis et catallis præ-
 ' dicti *Johannis* in Ballivâ suâ
 ' fieri faciat, et eidem *Radulpho*
 ' sine dilatione habere faciat, et
 ' quid, &c. scire faciat Justici-
 ' ario hic, &c. ad hunc diem.
 ' Et vicecomes modo mandat,
 ' quod de bonis prius captis
 ' pro debito prædicto appreti-
 ' antur per juratam ad sex cra-
 ' nocos frumenti, et sex crano-
 ' cos avenarum, viz quemlibet
 ' cranocum ad 4s. quæ bona
 ' prædictus *Radulphus de Wil-*
 ' *leby* per pretium prædictum
 ' recipere

Dublin fs. The Sheriff was
 commanded, that without delay
 he deliver those 8 cranocks of
 wheat, price of each 4s. and
 those 6 cranocks of oats, price
 of each 40d. which he lately
 seized into the King's hands,
 and detains in his custody for
 want of buyers, as to *Edmund*
le Botiller, Custos of *Ireland*,
 was signified on the morrow of
 the purification of the B. V. last
 past, at a reasonable price to
Ralph de Willeby, according to
 the appraisement of 48s. which
 the said *Ralph* in the court
 here, &c. before the said Custos
 at *Dublin*, by judgment of the
 said Court, recovered against
 the said *John*. Provided never-
 theless, that the appraisers, who
 ought to have appraised the
 said goods and chattles, apprai-
 zed them at such a price as
 they would take them at, if the
 said *Ralph* should refuse to take
 them at the said price; and that
 he should levy the residue of
 the said debt, if any remained,
 out of other goods and chattles
 of the said *John* within his Bal-
 lywick, and deliver them over
 to the said *Ralph*, without de-
 lay; and what, &c. he should
 certify to the Justice here, &c.
 at this day. And the Sheriff
 now returned, that the goods
 formerly taken for the said debt,
 were appraised by the Jury to
 six cranocks of wheat, and six
 cranocks of oats, namely, every
 cranock at 4s. which goods the
 said *Ralph de Willeby* refused
 to receive at the said price; for
 which reason he kept the said
 goods in safe custody for want
 of

' recipere recusavit, ob quod
 ' bona illa salvo custodivit pro
 ' defectu emptorum. Et sunt
 ' nomina appretiatorum prædic-
 ' torum bonorum *Johannes Ly-*
 ' *on*, &c. [and so names the
 ' rest,] et super hoc venit præ-
 ' dictus *Radulphus de Willeby*,
 ' et petit quod bona prædicta
 ' deliberentur prædictis appre-
 ' tiatoribus, et similiter quod
 ' habere possit breve vicecomiti
 ' ad fieri faciendum de bonis et
 ' catallis appretiatorum prædic-
 ' torum, ad opus prædicti *Ra-*
 ' *dulphi*, pecuniam prædictam
 ' juxta formam statuti, &c. et
 ' ei conceditur, et præceptum
 ' est vicecomiti, quod blada
 ' prædicta deliberari faciat præ-
 ' dictis Appretiatoribus in for-
 ' mâ prædictâ, et quod de bonis
 ' et catallis ipsorum Appretiato-
 ' rum in ballivâ suâ fieri faciat
 ' pecuniam prædictam, et illam
 ' sine dilatione habere faciat
 ' prædicto *Radulpho*, et quid,
 ' &c. scieri faciat, &c. die lunæ
 ' proximè ante festum Sancti
 ' Gregorii Papæ ubicunque, &c.'

of buyers. And the names of
 the appraisers of the said goods
 are *John Lyon*, &c. [and so
 names the rest,] and thereupon
 the said *Ralph de Willeby* comes
 and demands that the said goods
 should be delivered to the said
 appraisers, and likewise, that
 he may have a writ to the Sher-
 riff to levy out of the goods and
 chattles of the said appraisers,
 to the use of the said *Ralph*,
 the said money, according to the
 form of the statute, &c. which
 was granted to him. And the
 Sheriff was commanded to de-
 liver the said corn to the said
 Appraisers in form aforesaid,
 and that from the goods and
 chattles of the said Appraisers
 within his Balliwick he should
 levy the said money, and pay it
 over without delay to the said
Ralph. And what, &c. he should
 certify, &c. on monday next be-
 fore the feast of Saint *Gregory*
 the Pope, wheresoever, &c.

Divers other records remain in *Ireland*, whereby it ap-
 pears, that these statutes were executed there in the time
 of *Edw. 1st.* and *2d.* before the supposed statute made in
Ireland 13 Edw. 2. which, because they would draw out
 this treatise to too great a length, are now omitted, and I
 shall conclude this point with mentioning one commission for
 taking recognisances upon that statute.

Rot. pat. in
 dorso 11.
Edw. 2.
 ' Rex dilecto Clerico suo *Jo-*
 ' *banni de Logan*, salutem. Sci-
 ' atis quod assignavimus vos Cle-
 ' ricum nostrum ad recognitiones
 ' debitorum in civitate nostra
 ' *Corké* accipiendum, una cum
 ' Majore

The King to his beloved Clerk,
John de Logan, greeting. Know
 ye that we have appointed you
 our Clerk to take recognisances
 of debts within our City of *Cork*,
 together with the Mayor of the
 said

‘ Majore ejusdem civitates, a
 ‘ quibuscunque debitoribus, qui
 ‘ debita coram vobis recognos-
 ‘ cere voluerunt, secundum for-
 ‘ mam statuti Mercatoris de
 ‘ hujusmodi recognitionibus pro-
 ‘ vifi. Et ideo vobis manda-
 ‘ mus, quod officio illo intenda-
 ‘ tis, et ea faciatis, quæ ad of-
 ‘ ficium illud pertinent. In cu-
 ‘ jus rei, &c. Teste Rogero
 ‘ de Mortuo mari apud Clon-
 ‘ mell, 20o Januarii anno regni
 ‘ nostri 11o.’

said city, from all debtors, who
 are willing to acknowledge their
 debts before you, according to
 the form of the statute of Mer-
 chants concerning such recog-
 nizances provided. And there-
 fore we command you, that you
 employ yourself about the said
 office, and execute whatever be-
 longs to it. In testimony where-
 of, &c. Witness *Roger de Mor-*
timer at Clonmell, the 20th day
 of *January* in the 11th year of
 our reign.

The Author tells us, that such statutes as have been made
 since the 12th of K. *John*, which are positive, or which do
 alter, add to, or diminish from the antient Common Laws,
 were not of force in *Ireland*, nor there executed, till they
 were confirmed by Act of Parliament there; and that the
 statutes of *Westminster* 1. and 2. and other the antient laws
 made in *England* were confirmed in *Ireland* by his supposed
 statute of 13th *Edw.* 2. Whereas by these aforementioned
 records, and many others there yet extant, it is most evi-
 dent, that those antient laws made in Parliaments in *England*,
 in some whereof *Ireland* is named, in others not, yet both
 were there received and executed long before the said statute
 of 13th *Edw.* 2. And therefore *Ireland* was not separate from
 the Government of *England*, but always subject to the laws
 thereof.

Now let us briefly search what has been done in *Ireland*
 since that supposed statute of 13th *Edw.* 2. and of another
 statute by the Author cited to be made in 19 *Edw.* 2. (but
 makes no proof of it) where saith he, it was enacted, that
 the statutes made in *England* should not be of force in *Ire-*
land, unless they were allowed by Parliament there; and we
 shall find by the records in *Ireland*, that after his supposed
 statutes, there were statutes made in *England* only for *Ire-*
land, and not for *England*, which were in *Ireland* received
 and executed. That statutes made in *England* only, where
Ireland is not named, were binding, and executed in *Ire-*
land, and that statutes made in *England* only, where both
England and *Ireland* were named, were received and execut-
 ed

ed in *Ireland*, before any confirmation of them by Parliament there.

In 42 *Edw.* 3. a statute was made at *Guilford* in *England*, that all who had lands in *Ireland* should before *Easter* in 43 of that King go into *Ireland*, or send sufficient men thither, according to the rates of the lands, there to stay for the defence of that Kingdom, under pain of forfeiture of the said lands. This statute was received and executed in *Ireland*, and many men's lands were there seized into the King's hands as forfeited by vertue thereof, as by many records there in *Edward* the Third's time appears, whereof we shall cite only some few.

De quodam Anno 48 et 49 *Edw.* 3. in brevi ret. in officio rememoratum regis in Canc. Hib. scaccario, rot. 12. pro Hugonæ de Spencer.

* *Kilkenny* fs. Dominus Rex
 * mandavit breve suum de
 * Cancellariâ suâ *Hiberniæ*
 * Thesaurario et Baronibus hu-
 * jus Scaccarii directum in hæc
 * verba. *Edwardus*, &c. The-
 * saurario, vel ejus locum te-
 * nenti, et Baronibus de Scac-
 * cario suo *Hiberniæ*, salutem.
 * Quia quibusdam certis de
 * causis certiorari volumus, si
 * *Hugo*, filius *Edwardi de Spen-*
 * *cer* chevalier, jam defunctus,
 * et *Alicia*, filiâ *Johannis*, filii
 * *Petri de Hotham* Clerici, nu-
 * per uxor sua, seisisi fuere de
 * Castro de *Kilkenny*, cum
 * Molendino ibidem, et de
 * maneriis de *Donfert* et *Kil-*
 * *dermoy*, cum pertinentiis, &c.
 * (naming divers other towns
 * and lands) una cum liberta-
 * tibus regalibus ibidem, et aliis
 * libertatibus, officiis, et pro-
 * ficuis diversis, ad prædictum
 * Castrum, Villas, &c. perti-
 * nentibus, quæ de nobis tenen-

* tur

In the 48th and 49th year of *Edward* 3d in the remem-
 brancer's office roll, 42.

Kilkenny fs. The King di-
 rected his writ out of his Chan-
 cery of *Ireland*, to the Treas-
 urer and Barons of this Exche-
 quer directed in these words.
Edward, &c. to the Treasurer,
 or his Deputy, and to the Ba-
 rons of his Exchequer of *Ire-*
land, greeting. Because for
 certain causes we desire to be
 certified, if *Hugh*, the son of
Edward de Spencer Knight,
 now deceased, and *Alicia*,
 daughter of *John*, son of *Peter*
de Hotham Clerk, late his wife,
 were seized of the Castle of *Kil-*
kenny, with a Mill there, and
 of the Manors of *Donfert*, and
Kildermoy, with the appurten-
 ances, &c. (naming divers o-
 ther towns and lands) together
 with the regal liberties therein,
 and other liberties, offices, and
 divers profits, belonging to the
 said Castle, Towns, &c. which
 are held of us in Capite, in
 their demesne as of fee; as al-

so,

tur in Capite, in Dominico
 suo ut de scēdo, nec non si
 idem Castrum, Maneria, &c.
 virtute cujusdam ordinationis
 nuper apud *Guilford*, Anno
 Regni nostri Angliæ 42. fac-
 tæ, quod quilibet homo ha-
 bens dominia, terras, vel te-
 nementa a quæcunque in terrâ
 nostrâ *Hiberniæ*, in propriâ
 personâ suâ in dictam terram
Hiberniæ veniret, vel ibidem
 gentes sufficientes mitteret
 juxta ratam dominiorum, ter-
 rarum, et teneamentorum præ-
 dictorum ante festum Paschæ,
 Anno Regni nostri Angliæ 43,
 vel in eodem festo, ad moran-
 dum ibidem in dictâ terrâ
 nostrâ *Hiberniæ* super defen-
 sionem ejusdem terræ, super
 forisfacturam terrarum et do-
 miniorum prædictorum erga
 nos, et hæredes nostros. Et
 pro eo quod præfatus *Hugo* in
 dictâ terrâ *Hiberniæ* non ve-
 nit, nec gentes sufficientes su-
 per defensionem dominiorum,
 terrarum, et teneamentorum
 prædictorum, moraturas, ante
 dictum festum misit, capta
 fuere in manum nostram, et si
 eâ de causâ, et per mortem
 ipsius *Hugonis*, in manum nos-
 tram remanserunt et adhuc
 existunt, nec ne, et si alia de
 causâ, qualiter, et quo mo-
 do; vobis mandamus, quod
 scrutatis rotulis & memoran-
 dis Scaccarii prædicti præmissa
 concernentibus, de eo quod
 inveneritis nos in Cancellariam
 nostram *Hiberniæ* sub sigillo
 ejusdem Scaccarii distinctè, et
 apertè sine dilatione reddatis
 PART II. certiores,

so, if the said Castle, Manors,
 &c. by vertue of a certain or-
 dinance lately made at *Guilford*
 in the 42d year of our reign,
 that every man having any
 Lordships, Lands, or Tene-
 ments, in our land of *Ireland*,
 should in proper person come
 into the said land, or send suffi-
 cient people thither, according
 to their proportion of such
 Lordships, Lands, and Tene-
 ments, before the feast of *Eas-
 ter* in the 43d year of our reign
 of *England*, or on the said feast,
 to abide there in our said land
 of *Ireland*, in defence of the
 same, under the forfeiture of
 the said lands and teneiments to
 us and our heirs. And because
 the said *Hugh* did not come in-
 to the said land of *Ireland*, nor
 sent sufficient people there, to
 abide therein, for the defence
 of the said Lordships, lands,
 and tenements before the said
 feast, the same were seized in-
 to our hands, and if for that
 cause, and by the death of the
 said *Hugh*, they remained, and
 still remain in our hands, or no,
 or, if for any other cause, how,
 and in what manner, we com-
 mand you that having searched
 the rolls and memorandums of
 the said Exchequer concerning
 the præmisses, that what you
 find relating thereto you certi-
 fie to us into our chancery of
Ireland, under the Seal of the
 said Exchequer distinctly and
 clearly, without delay, at the
 same time making a return to
 us of this writ. Witnesses *Wil-
 liam de Windsor*, Governour
 H and

certiores, hoc breve nobis remittentes. Teste *Willielmo de Windsor*, Gubernatore et Custode terrarum nostrarum *Hiberniæ*, apud *Dublin* 12 die *Maii*, Anno Regni nostri *Angliæ* 49, &c. Pretextu hujus brevis, scrutatis Rotulis et memorandis *Scaccarii Hiberniæ*, compertum est in iisdem, quod castrum de *Kilkenny*, et *Molendinum* ibidem, Manerium de *Donfert*, &c. (naming the rest of the towns and lands in the *Certiorari* mentioned) una cum libertatibus regalibus ibidem, et aliis libertatibus, officiis, et proficuis diversis, ad prædictum Castrum, Villas, Maneria, &c. infra contentis, virtute Ordinationis de *Guilford*, in manus Domini Regis Capta fuere, et eadem de causâ in manum nostram, a tempore ordinationis prædictæ et deinceps ratione moræ infra scripti *Hugonis* extra terram *Hiberniæ*, remanserunt, & adhuc existunt, et nulla alia causa penes dictum scaccarium ad præsens reperiri potest, per quam idem Castrum, Maneria, Molendina, &c. capta fuere in manum nostram præter causam ordinationis de *Guilford* prædictæ.

and Custos of our lands of *Ireland* at *Dublin*, the 12th day of May in the 49th year of our reign. — By vertue of this writ, having searched the rolls and memorandums of the Exchequer of *Ireland*, it is found therein, that the castle of *Kilkenny*, and a mill there, the manor of *Donfert*, &c. (naming the rest of the towns and lands in the *Certiorari* mentioned) together with the regal liberties there, and divers other liberties, offices, and profits, belonging to the said castle, towns, manors, &c. underneath contained, by vertue of the ordinance of *Guilford*, were seized into the King's hands, and for the same cause have remained in our hands from the time of the said ordinance, and afterwards, by reason of the stay of the said *Hugh* out of the lands of *Ireland*, do yet remain; and no other cause can at present be found in the said Exchequer for which the said castle, manors, mills, &c. were seized into our hands, except the ordinance of *Guilford* aforesaid.

By this record it appears, that these lands were seized presently into the King's hands upon that statute of *Guilford*, as soon as it was in force. For the words of the return of the writ are — *Eadem de causâ in manum nostram a tempore ordinationis prædictæ, et deinceps ratione moræ* — For the same cause, were seized into our hands from the time of the said ordinance; and, from thenceforth by reason of the stay,

&c.

¶ And therefore, there is no likelihood that that statute was ever confirmed in any Parliament in *Ireland*; nor do we find any mention of such confirmation in any record, or any other place.

Placita apud Adare coram Willielmo de Windsor, locum tenente Domini Regis in *Hibernia* a die Sancti Michaelis in 15 dies, Anno Regni Regis Edw. 3. 44^e.

Pleas held at *Adare* before William de Windsor, Lieutenant of our Lord the King in *Ireland*, on the Quindene of St. Michael, in the 44th Year of King Edward 3d.

A^o. 43. Ed.
3. rot. 21. in
dorfo. tur.
Berm.

Corke, ff. ' Præceptum fuit vi-
' cecomiti, quod capi et seisciri
' faciat in manum Domini Re-
' gis quartam partem manerii
' de Incheoigne, cum perti-
' nentiis, quæ fuere Thomæ de
' Roos, et manerium de Bally-
' darawin cum pertinentiis,
' quod fuit Willielmi de Can-
' ton, de quibus quidem ma-
' neriis, et quartâ parte manerii,
' idem Thomas & Willielmus,
' pro eo quod ipsi in propriis
' personis suis ante festum Pas-
' chæ, Anno Regni Domini
' Regis, qui nunc est, 430. ad
' terram *Hiberniam* non venere,
' nec alios sufficientes loco suo
' ad eandem terram, ante dic-
' tum festum, ad proprios
' cultus suos miserunt, pro con-
' sideratione curiæ dicti Regis
' exhæredantur, et ad Domini-
' um Domini Regis applicantur,
' juxta ordinationem indè in
' Angliâ factam, et quod dic-
' tum Manerium, et quartam
' partem manerii, per sacra-
' mentum proborum & legalium
' hominum de ballivâ suâ, per
' quos, &c. extendi faciat,
' quantum (viz.) valuerant per
' annum ad dictum festum Pas-
' chæ, et quantum nunc valent
' per

Corke ss. The sheriff was com-
manded, that he should take
and seize into the hands of the
King the 4th part of the manor
of *Incheoigne*, with the appur-
tenances, the property of *Tho-
mas Roos*, and the manor of
Ballydarawin, with the appur-
tenances, the property of *Wil-
liam de Canton*, of which ma-
nor, and the 4th part of a ma-
nor, the said *Thomas* and *Wil-
liam* were disherited, by judg-
ment of the King's Court, be-
cause that they in their proper
persons before the feast of Eas-
ter, in the 43d year of the
King that now is, did not come
to the land of *Ireland*, nor send
a sufficient number of others to
the said land in their steads, at
their proper expences, before
the said feast, and the said lands
were adjoined to the Lordship
of the King, according to an
Ordinance to that purpose made
in *England*; and that he should
extend the said manor, and 4th
part of a manor, by the oaths
of honest and legal men of his
ballywick, by whom, &c.
namely, at what they were
worth by the year at the said
feast of Easter, and how much
they

per annum in omnibus exitibus, juxta verum valorem eorum, et quis, vel qui, exitus et proficua eorundem ad dictum festum, et ad alios terminos huc usque, et quantum perceperunt, vel percepit, qualiter, et quomodo; ita quod idem Vicecomes de exitibus indè Domino Regi a 24^o die Julii anno, ut infra, Domino Regi respondeat, et quid inde fecerit præfato Locum tenenti ad hunc diem ubicunque, &c. constare faciat. Cujus Mandati prætextu *Johannes Lombard*, Vicecomes comitatus prædicti, quandam inquisitionem captam coram eo dicto locum tenenti retournavit ad hunc diem, in formâ quæ sequitur — Inquisitione Capta apud *Corke* coram *Johanne Lombard*, Vicecomite Comitatus prædicti, die Mercurii proximè post festum St. Dionysii Martiris, Anno Regni Regis *Edw.* 3, 44^o. per subscriptos viz. *Richardum* filium *Petri de Carew*, &c. Qui Juratores dicunt super sacramentum suum, quod 4^o. pars manerii de *Inchecoigne*, cum pertinentiis, quæ fuit *Thomæ de Roos*, ad festum Paschæ anno Domini Regis 43^o, non valuit ultra 3l. 3s. per annum in omnibus exitibus, nec adhuc plus valet, et quod — Illegit, ut attornatus prædicti *Thomæ de Roos* recepit proficua inde venientia ad dictum festum Paschæ, et huc usque percipit; et quod manerium de Bally.

they are now worth by the year in all issues, according to the true value of them, and who, or what person or persons received the issues and profits of them on the said feast, and at other terms hitherto, and how much he or they received, how, and in what manner; so that the said sheriff may answer the King the profits thence accruing from the 24th day of July in the year underwritten, and that what he should do therein he should signify to the said Lord Lieutenant at this day, wheresoever, &c. By virtue of which mandate *John Lombard*, sheriff of the said County, returned to the said Lord Lieutenant a certain inquisition taken before him in the following form. — An inquisition taken at *Cork* before *John Lombard*, sheriff of the said County, on the wednesday next after the feast of St. Dennis the martyr in the 44th year of the Reign of King *Edward* 3d. by the undernamed, viz. *Richard Fitz-Peter de Carew*, &c. which Jury say upon their oaths, that the 4th part of the manor of *Inchecoigne*, with the appurtenances, which was the property of *Thomas de Roos*, on the feast of Easter in the said 43d year of the King was not worth above 3l. 3s. a year, in all its issues, and is not yet worth more, and that — Illegit, as attorney for the said *Thomas de Roos*, received the profits from thence arising on the said feast of Easter, and yet

received

Ballyderawin, cum pertinentiis
nil valet per annum, nec va-
luit ad dictum festum Paschæ,
quia in manus Rebellion &
inimicorum Domini Regis ex-
istit; quod scilicet Manerium,
et quarta pars Manerii, capta
sunt et seista in manus Domi-
ni Regis in formâ præscriptâ.

receives the same: and that the
manor of *Ballyderawin*, with
the appurtenances, is worth
nothing by the year, nor was
worth any thing on the said
feast of Easter, because it was
in the hands of Rebels and Ene-
mies to the King; which said
manor, and fourth part of a
manor, were taken and seized
into the King's hands in the
form above written.

It appears by this record, that this seizure was made by
virtue of the statute made in *England*, and that within a very
little time after it was to be of force; but no mention is made
of any such statute made and confirmed in *Ireland*; and the
time and matter of this record compared with the former re-
cord makes it appear, that this was upon the statute of *Guil-*
ford.

It appears by a record, (t) that *Edward le Despencer*, be-
ing seized of the lands of *Ballyoweran*, in the County of
Waterford, had them seized as forfeited by virtue of that
statute of 42. *Edw. 3.* at *Guilford*; though, as the record
saith, he was at the time of the said ordinance by the King's
command in his service in *Lombardy*; and therefore the King
pardoned him the forfeiture, and regranted the lands to
him; so strictly was that statute executed in *Ireland*.

Anno 44. *Edw. 3.* the Earl of *Kildare* petitioned the
Parliament to have certain lands holden of him, and lately in
his possession by virtue of a wardship, restored to him, which
were seized by vertue of the statute of 42. *Edw. 3.* Whereas
as the record is) *Johannes* (Father of the ward) *Obiit ante*
ordinationem prædictam per dictum Regem et consilium suum in
Angliâ factam, in quâ inter cætera continetur, quod omnes &
singuli Regni Angliæ, tam Prælati, Duces, Comites, Baro-
nes, quam alii quicunque, cujuscunque status, &c — *John*
(Father of the ward) died before the said ordinance was made
in *England* by the said King and his Council, in which, a-
mong other things, is contained, that all and singular Pre-
lates, Dukes, Barons, and others, of what state or condition
soever,—and so recites the statute before mentioned in the
record of *Hugh de le Spencer*, and then saith, that he did

maintain men for the defence of the said lands, which being transmitted into the King's Bench, and there so found, he had an *amoveas manum*. The record is large, and many other notable records there are to this purpose, which, being long, are for brevity omitted. By all which it appears, that the said statute was executed in *Ireland*, and yet by the records themselves it is evident, that the said statute was made only in *England* and so recited in the records to be—*virtute ordinationis factæ in Angliâ*—by virtue of an ordinance made in *England*; neither doth it appear, that the said statute was ever confirmed by any Parliament in *Ireland*, but was executed presently upon the making it in *England*, as by the record of *Hugh Despencer* appears; whereby it is evident, that statutes made only in *England* for *Ireland* were there received, were of force, and there executed.

(g) 3. rep. Statutes made in *England*, where *Ireland* is not named, did
Herbert's bind in *Ireland*, before any confirmation of them there, as
Case 12. a. appears by records there. The statute 25 *Edw.* 3. Chap. 17.
2d. Inst. up- faith, that such process shall be in debt as in account, which
on Stat. West. is an introductory law. For before that time a *Capias* did not
2. Chap. 18. lie for debt, nor was the body liable to execution for debt
(g). Yet that statute was executed in *Ireland* in the time of
King *Edw.* 3. long before any confirmation of it.

In 44. *Edw.* 3. Rot. 20. in the chief Remembrancer's Office, but belonging to the Common Pleas.

Catherlogh ss. ' *Johannes Moore*
' per *Johannem Leyn*, Attorna-
' tum suum, obtulit se 4^o die
' versus *Richardum*, filium *Richardi Witty*, de placito quod
' reddat ei 40l. quas ei debet,
' et injuste detinet, ut dicit.
' Et præceptum fuit Viceco-
' miti, sicut pluries, quod ca-
' peret eum. Et Vicecomes
' mandat, quod ipse non est
' inventus, ita quod capi po-
' tect, et ipse modo non venit.
' Ideo præceptum est Viceco-
' miti, quod coram se, et Cus-
' tode placitorum Coronæ, &c.

in

Catherlogh ss. *John Moore* ap-
peared on the 4th day by *John*
Leyn, his Attorney, against *Richard Fitz Richard Witty*, in
a plea that he should render him
40l. which he owes him, and
unjustly detains from him, as
he alledges. And the Sheriff
was commanded, as he often
was before, to take him Prisoner.
And the Sheriff returns,
that he is not to be found, so
as to be taken, and he did not
now appear. Therefore a pre-
cept issued to the Sheriff, that
he should in his full County
caute

‘ in pleno Comitatu suo exigi
 ‘ faciat prædictum *Richardum*
 ‘ de Comitatu in Comitatum,
 ‘ quousque utlagatus fuerit, et
 ‘ si comparuerit, tunc eum ca-
 ‘ piat, et ipsum in Prisonâ, &c.
 ‘ salvo custodiri faceret, ita
 ‘ quod habeat corpus ejus hic
 ‘ ad respondendum, &c. et
 ‘ quid inde fecerit Justiciario
 ‘ hic a die Paschæ in unum
 ‘ mensem constare faciat. Idem
 ‘ dies datus est prædicto *Jo-*
 ‘ *banni Moore.*’

cause the said *Richard* to be
 exacted from County to Coun-
 ty Court before himself, and
 the Keeper of the Pleas of the
 Crown, &c. until he should be
 outlawed; and if he appeared,
 that then he should take him
 prisoner, and should safely de-
 tain him in prison, so that he
 should have his body here to
 answer, &c. and what he
 should do therein he should sig-
 nifie to the Justice here in the
 month after Easter. The same
 day was given to the said *John*
Moore.

Many more of this Kind may be seen in the 6th Roll of
 that year.

‘ Rex omnibus Ballivis & fi-
 ‘ delibus suis ad quos, &c. fa-
 ‘ lutem. Scitis quod cum *Jo-*
 ‘ *bannes Moore* nuper implaci-
 ‘ tasset Mauritium *Fitz-Gerald*
 ‘ coram Justiciariis nostris de
 ‘ Banco *Hiberniæ*, per breve
 ‘ nostrum de Debito 11l. &
 ‘ 10s. quod idem *Johannes* a
 ‘ præfato Mauritio exigebat;
 ‘ ac idem Mauritius, pro eo
 ‘ quod non venit coram præfa-
 ‘ tis Justiciariis nostris prædicto
 ‘ *Johanni* inde, secundum le-
 ‘ gem & consuetudinem terræ
 ‘ nostræ *Hiberniæ*, responsurus,
 ‘ in exigendo positus fuisset in
 ‘ comitatu *Dublin* ad utlagan-
 ‘ dum, et eadem occasione
 ‘ postmodum utlagatus, sicut
 ‘ per tenorem Recordi et pro-
 ‘ cessus utlagariæ prædictæ,
 ‘ quos coram nobis in Cancellaria
 ‘ nostrâ *Hiberniæ* venire fe-
 ‘ cimus plenius apparet. Idem-
 ‘ que

The King to all his Bayliffs Rot. Pat.
 and faithful subjects, to whom, 49. Edw. 3.
 &c. greeting. Know ye, that
 whereas *John Moore* lately hath
 impleaded *Maurice Fitz-Ger-*
ald before the Justices of our
 bench of *Ireland* by our writ of
 debt for 11l. 10s. which the
 said *John* demanded from the
 said *Maurice*; and the said
Maurice, for that he did not
 appear to answer the said *John*
 before our said justices accord-
 ing to the law and custom of
 our land of *Ireland*, was put
 on the exigent in order to out-
 law him in the county of *Dub-*
lin, and upon that occasion was
 afterwards out-lawed, as more
 fully appears by the tenor of
 the record and proceſſe of the
 said out-lawry, which we caus-
 ed to be returned before us in
 our Chancery of *Ireland*; and
 the said *Maurice* hath now ren-
 dered

que Mauritius Prisonæ Maref-
challi nostri in Banco prædicto
jam se reddiderit, et in eo-
dem eâ occasione moratur, si-
cut dilectus et fidelis noster
Rebertus de Preston, Capitalis
Justitiarius noster de Banco
prædicto, nobis in Cancellariâ
nostrâ prædictâ ad mandatum
nostrum certificavit. Nos pie-
tate moti pardonavimus ei-
dem Mauritio utlagariam præ-
dictam, et firmam pacem, &c.
Ita quod stet recto, &c. si
quis versus eum loqui volue-
rit de debito supradicto. In
cujus, &c. Teste, &c. 3^o.
die Julii.

dered himself to the prison of
our Marshall in our said bench,
and for that cause now remains
there, as our beloved and faith-
ful subject *Robert de Preston*,
Chief Justice of our said bench
hath, at our command, certifi-
ed to us into our said court of
chancery: We, being moved
by compassion, have pardoned
the said *Maurice* the said out-
lawry, and do restore him to
our firm peace, &c. on condi-
tion that he stands to justice,
&c. if any has any demand to
make against him for the said
debt. In testimony, &c. wit-
ness, &c. the third day of July.

In the Roll of that year there are the like pardons of out-
lawries to others; and in the Plea Roll of the common Pleas
in *Ireland* in 5. *Hen. 6.* 11. *Hen. 6.* and 19. *Hen. 6.* till
which time and after from 25. *Edw. 3.* there was no con-
firmation of any statute made in *England* by any Parliament
in *Ireland*. There are hundreds of actions of debt brought,
whereupon a *Capias* issued, and upon many of the exigents
returned, and divers out-lawed, out-lawries after judgment,
and pardons of out-lawries, which could not be upon any
statute but that of 25. *Edw. 3.* For no other statute, nor
any confirmation of that statute was made by a Parliament
in *Ireland*, until the statute of 8. *Edw. 4.* which confirmed
that statute of *England*, was never heard of, ever yet found,
or mentioned in any record, or otherwise, whereupon that
writ of *Capias* should issue in debt, but only that of 25.
Edw. 3d.

The statutes of labourers made in the 23d. and 25. *Edw.*
3. wherein *England* is only mentioned, were executed in
Ireland, even in that King's time, without any confirmati-
on by Parliament in *Ireland*; concerning which there are
divers records in *Ireland*. I will only for brevity cite one,
which will make it clear.

Commissiones

Comm
tentes d
50 Edw
Urie
Johan
nagh,
& Job
Cum
Regni
nostras
Rigina
tum H
tros a
ta de
servien
Parlian
monast
comm
tri A
Hiber
& sing
tu Lon
quam
custoc
nia et
mam
torum
itatu
bertat
tempt
tram,
runcu
queri
audien
juxta
tionis
vis n
omnib
specta
latu fi
quod
menta
naldo
Session
quo a
sa faci

Commissiones et literæ pa-
tentes de termino Paschæ Anno
50 *Edw.* 3.

Uriel ss. Rex dilecto sibi
Johanni Taase de Castletom-
nagh, Vicecomiti nostro *Uriel*,
& *Johanni Dowdal*, salutem.
Cum 60. die *Octobris* Anno
Regni nostri 460. per literas
nostras patentes Assignavimus
Reginaldum Hadfor, et *Robert-*
um Heiron, Justiciarios nos-
tros ad ordinationem et statu-
ta de operariis, artificibus, &
servientibus, in Conciliis et
Parliamentis nostris apud *West-*
monasterium nuper tentis, pro
communi utilitate Regni nos-
tri *Angliæ*, et terræ nostræ
Hiberniæ, facta, in omnibus
& singulis articulis in Comitatu
Louth, tam infra libertates
quam extra, custodiendum, et
custodiri faciendum, et ad om-
nia et singula, quæ contra for-
mam Ordinationum et statu-
torum prædictorum in Com-
itatu prædicto, tam infra li-
bertates quam extra, fuere at-
temptata, tam ad sectam nos-
tram, quam ad aliorum quo-
rumcunque coram eis con-
queri seu prosequi volentium,
audiendum et terminandum,
juxta vim & effectum ordina-
tionis et statuti prædicti; sal-
vis nobis amerciamentis, et
omnibus aliis ad nos inde
spectantibus. Ac jam ex re-
latu fide dignorum accepimus,
quod diversi fines et amercia-
menta eo am præfatis *Regi-*
naldo et *Roberto* in pluribus
Sessionibus suis, de tempore
quo assignati fuere ad præmis-
sa facienda, nobis forisfacta &
adjudicata

Commissions and Letters Pa-
tent of *Easter* Term in the 50th
year of *Edward* 3d.

The King to his beloved sub-
ject, *John Taase of Castletom-*
nagh, our Sheriff of *Uriel*, and
John Dowdal, greeting. Where-
as on the 6th day of *October* in
the 46th year of our reign we
by our Letters Patent appointed
Reginald Hadfor and *Robert*
Heiron, our Justices, to main-
tain, and cause to be maintain-
ed in the county of *Louth*, as
well within as out of liberties,
the ordinance and statutes of la-
bourers, artificers, and servants,
made in our Councils and Par-
liaments lately held at *Westmin-*
ster, for the common utility of
our Kingdom of *England*, and
our land of *Ireland*, in all and
singular the articles thereof, and
to hear and determine, accord-
ing to the force and effect of
the said ordinances and statutes,
all and every thing, which were
attempted against the form of
the said ordinances and statutes
in the said county, as well
within as out of liberties, as
well at our suit, as at the suit
of any others whatsoever, who
will complain or prosecute be-
fore them: saving to us our a-
merciaments, and all other things
belonging to us thereout. And
now we have heard by the re-
lation of People worthy of cre-
dit, that divers fines and amercia-
ments have been forfeited
and adjudged to us, amounting
to no moderate sum, before the
said *Reginald* and *Robert*, in
many of their sessions, from the
time that they were appointed

In Officio
Remom. in
Scaccario,
Anno 49.
and 50. *Edw.*
3. Rot. 5,

' adjudicata fuere ad summam
 ' non modicam attingentia, quæ
 ' a Debitoribus nostris illa de-
 ' bentibus ad opus illorum pro-
 ' prium levaverunt & recupera-
 ' verunt, et voluntatem suam
 ' inde fecerunt, et eosdem fines
 ' & amerciamenta, ac catalla
 ' forisfacta, ad Scaccarium no-
 ' strum *Hiberniæ* non retorna-
 ' verunt, sed penes eos concel-
 ' larunt, & concealant in præ-
 ' senti, &c. After in that com-
 ' mission is power given them to
 ' inquire of the defaults of the
 ' said *Robert Heiron* as Coroner
 ' of that County, which is not to
 ' our purpose. ' In nostrum præ-
 ' judicium, et damnum non
 ' modicum, ac contra formam
 ' Sacramentorum prædicti *Regi-*
 ' *naldi & Roberti* in hac parte
 ' præstitorum. Nos ad Com-
 ' modum nostrum in hac parte
 ' prospicere, & super præmissis
 ' plenius informari, et veritatem
 ' scire cupientes, ut tenemur,
 ' ac de fidelitate et industriâ
 ' vestrâ plenariè confidentes, as-
 ' signavimus vos ad inquirendum
 ' per Sacramentum bonorum &
 ' legalium hominum de Comi-
 ' tatu prædicto, per quos rei ve-
 ' ritas melius sciri poterit, et
 ' inquire, quæ et cujusmodi fi-
 ' nes & amerciamenta et Catal-
 ' la forisfacta coram præfatis
 ' *Reginaldo et Roberto*, in qui-
 ' buscunque Sessionibus suis de
 ' tempore quo Assignati fuere
 ' Justitiarum nostri in præmissis
 ' nobis forisfacta seu adjudicata
 ' fuere, quæ in formâ prædictâ
 ' ad Scaccarium nostrum præ-
 ' dictum non retornavere, sed
 ' illa, ut præmittitur, conceal-
 ' runt,

to execute the premises, which
 they have recovered and levied
 from our Debtors to their pro-
 per uses, and have turned them
 to their own accounts, and have
 not returned the said fines, a-
 merciaments, and chattles to
 our Exchequer, but have con-
 cealed, and still do conceal
 them, among themselves (after
 in that commission power is gi-
 ven them to inquire of the de-
 faults of *Robert Heiron*, as Co-
 roner of that county, which is
 not to our purpose) to our no
 small prejudice and damage,
 and against the form of the
 Oaths taken upon this occasion
 by the said *Reginald* and *Robert*.
 We desiring to take care of our
 profit upon those points, and to
 be fully informed of the Pre-
 misses, and to come at the
 knowledge of the truth, as we
 ought to do, and placing an en-
 tire confidence in your fidelity
 and industry, we have deputed
 you to inquire by the Oaths of
 good and legal men of the said
 County, from whom the truth
 can be best inquired and disco-
 vered, what, and what sort of
 fines, amerciaments, and chat-
 tles were declared forfeited be-
 fore the said *Reginald* and *Ro-*
bert, and in what Sessions, from
 the time that they were ap-
 pointed our Justices in the Pre-
 misses, which they have not re-
 turned into our said Exchequer,
 but have and do conceal as a-
 foresaid, not taking care to sa-
 tisfy us therein, and from what
 Persons particularly the said
 fines, amerciaments and chat-
 tles they levied and received to
 their

runt, et concellant in præsen-
 ti, nobis indè satisfacere non
 curando, et de quibus personis
 particulariter dictæ fines et a-
 merciamenta & Catalla foris-
 facta ad opus illorum propri-
 um levaverunt et perceperunt
 qualiter, et quomodo; Et ideo
 Mandamus quod omnia & sin-
 gula præmissa modo debito fa-
 ciatis, &c. & inquisitiones illas
 coram nobis distinctè et ap-
 pertè faciatis, unâ cum toto
 facto vestro in hac parte ha-
 beatis coram Baronibus Scac-
 carii nostri Hiberniæ apud
 Catherlogh a die S. Trinitatis
 in 15 dies sub Sigillis vestris,
 &c. in cujus, &c. Teste R.
 Holliwood, Barone Scaccarii
 nostri prædicti apud Cather-
 logh, 6o. Maij. Anno Regni
 nostri Angliæ 500.

Adhuc Communia Placita de
 termino Trinitatis Anno 50.
 Edw. 3.

Uriel fs. Dominus Rex
 Mandavit breve suum de Can-
 cellariâ suâ Hiberniæ Thesau-
 rio et Baronibus hujus Scac-
 carii directum in hæc verba. Ed.
 &c. Thesaurario et Baroni-
 bus de Scaccario Hiberniæ Sa-
 lutem. Quandam petitionem
 Gubernatori et Custodi terræ
 nostræ, ac aliis de concilio nos-
 tro in Parlamento nostro apud
 Dublin in Octavis St. Hillarii
 proximè præteriti, tento, per
 Reginaldum Hadfor & Rober-
 tum Heiron exhibitam, et per
 ipsos indorsatam, mandamus,
 quod, visis petitione & indor-
 samento prædictis, ulterius in-
 de fieri faciatis prout contine-
 tur in eisdem, remittentes no-
 bis

their own proper uses, how and
 in what manner. And there-
 fore we command you, that you
 duly execute all and singular
 the premisses, &c. and that you
 distinctly and clearly cause the
 said Inquisitions to be returned
 before us, together with all
 that you shall do upon the oc-
 casion, before the Barons of our
 Exchequer of Ireland at Cather-
 logh on the Quindene of the
 Holy Trinity next, under your
 Seals, &c. In testimony of
 which, &c. Witness R. Holli-
 wood, Baron of our said Exche-
 quer at Catherlogh, the 6th day
 of May in the 50th year of our
 reign.

As yet the Common Pleas of
 Trinity Term in the 50th year
 of Edward 3d

Anno præd.
 rot. 37. dor-
 so.

Uriel fs. The King sent his
 Writ out of the Chancery of
 Ireland directed to the Treasurer
 and Barons of this Exchequer
 in these words. Edward, &c.
 To the Treasurer and Barons of
 his Exchequer of Ireland, greet-
 ing. We command, that hav-
 ing seen a certain petition exhi-
 bited by Reginald Hadfor and
 Robert Heiron to the Governor
 and Custos of our land of Ire-
 land, and to our Council in our
 Parliament held at Dublin on
 the Octave of St. Hillary last
 past, and by them indorsed, that
 you further do as is contained
 therein, making a return to us
 of this Writ, together with the
 said Petition. Witness William

de

• bis hoc breve, una cum peti-
 • tione prædictâ. Teste *Willi-*
 • *elmo de Windfore*, Gubernatore
 • et Custode terræ nostræ
 • *Hiberniæ*, apud *Dublin*, 110.
 • die Februarij, Anno Regni
 • nostri 490, &c. Et tenor peti-
 • tionis, de qua fit mentio su-
 • perius in brevi, sequitur in
 • hæc verba. A vous Seigneur
 • Gouverneur et Gardein de
 • *Ireland*, et autres sages de
 • Councell. Notre Seigneur le
 • Roy illonques Supplication *Re-*
 • *ginald de Hadfor* et *Robert*
 • *Heiron*, que ou ils ont estre
 • Justices de Laboureurs per
 • deux ans passe per Commission
 • notre Seigneur le Roy in le
 • Countie le *Louth* assignate,
 • que plesse granter a les dits
 • vaudits le *Reynold & Robert*
 • convenable regard pour leur
 • grands Custages & Travaulx,
 • que ils ont susteinies per
 • mesme le temps. Et mieux
 • contristant, que leur regard
 • ne est en le dite Commission
 • en certain limite et assignate,
 • que vous plesse de votre bone
 • grace granter al eux le tierce
 • partie de les issues provenant
 • de mesme l'Office, come a
 • tout ceux est graunte, que ont
 • este en meme l'office per my
 • le terre d'*Ireland*, come plus
 • pleine appeire en le Rolls de
 • la Chancery, et come per le
 • Councell nostre dit Seigneur
 • le Roy adonques exteant ac-
 • cord suist & assentu, come
 • plusors de eux soy bien reco-
 • lant. Quæ quidem petitio in-
 • dorsatur sic. — Soit Cest
 • petition maunde per breve di-
 • rect

de Windfore, Governor and Custos of our land of *Ireland*, at *Dublin*, the 11th day of *February*, in the 49th year of our reign, &c. And the tenor of the Petition above mentioned in the Writ is as follows — To you, our Lord Governor and Custos of *Ireland*, and to the other Sages of the Council. Our Lord, the King, according to the supplication of *Reginald de Hadfor*, and *Robert Heiron*, that as they have been appointed Justices of labourers for two years past by commission of our Lord the King in the county of *Louth*, that it may please you to grant to the aforesaid *Reginald* and *Robert* a proper reward for their great charges and labour sustained by them in that time. And being much troubled, that their reward is not in certain limited and appointed by the said commission, that you would be pleased of your good Grace to grant unto them the third part of the issues accruing from the said office, as is granted to all those who have executed the said office through *Ireland*, as more fully appears in the Chancery Rolls, and as was accorded and agreed by the Council of our Lord the King then being, as many of them well remember — Which said petition is thus indorsed. — Let this Petition be sent by Writ directed to the Treasurer and Barons of the Exchequer, and then their Estreats being entirely returned, that they view and examine the sum of the Estreats leviable,

rect al Treasorer et Barons de
 Exchequer, et illonque retur-
 nant leur estreits entierement,
 queux veux ut examines soit
 le some de des estreits leva-
 ble, mande per les dit Tre-
 forer et Barons en le Chancel-
 lier, et de tiel Somme levable
 soit breve de liberate de cha-
 cune Partie. Quod quidem
 breve remittitur in Cancellaria
 prædictâ indorsatum in for-
 mâ quæ sequitur, una cum
 petitione prædictâ. Prætextu
 hujus brevis, visis et examina-
 tis extractis Justiciariorum in-
 fra contentis in Scaccario Hi-
 berniæ per eosdem Justicia-
 rios missis, examinantis per Ba-
 rones Scaccarii prædicti, quod
 quidem extractum se extendit
 ad summam 6l. 3s. 6d. de
 diversis finibus et amerciamen-
 tis levabilibus in eisdem ex-
 tractis contentis.

leviable, to be sent by the Treas-
 urer and Barons into the Chan-
 cery, and of such sum leviable
 let a Writ of liberate issue to
 each party. Which Writ was
 sent into the Chancery, and in-
 dorsed in the following form,
 together with the said Petition.

—By vertue of this Writ,
 having viewed and examined
 the Estreats of the Justices con-
 tained underneath in the Ex-
 chequer of *Ireland*, and the same
 were examined by the Barons of
 the said Exchequer; which said
 Estreats amount to the sum of
 6l. 3s. 6d. out of divers fines
 and amerciaments levied and
 contained in the said Estreats.

By this Record it is plain, that they in *Ireland* did con-
 ceive, that statutes made in *England* did bind in *Ireland*,
 though *Ireland* was not named in them. For they received
 them, and put them in execution, as these two statutes of
 labourers. For the Commission recites, that they were made
 Justices for the statutes of Labourers lately made in our Coun-
 cils and Parliaments at *Westminster* for the common profit of
 our Kingdom of *England*, and land of *Ireland*.

It is likewise to be observed, that these statutes were not
 opposed in Parliament in *Ireland*, as not binding there, or
 that first they ought to be confirmed there, when the above
 mentioned petition was preferred by the said *Hadsor* and
Heiron to have allowance for their charges; but their request
 was granted, that they should have the 3d part of the issues,
 &c. and that this had been done all *Ireland* over upon the
 execution of these statutes, as by their petition appeared.
 By which it is plain, that these statutes were executed in
Ireland presently after the making of them in *England*. For
 the statutes being made in the 23d and 25th *Edw. 3.* and
 this

this Record being 49th *Edw. 3.* which recites, that allowance had been made formerly all *Ireland* over to all such Commissioners, it must needs follow, that shortly after the making of them they were then in *Ireland* executed.

Statutes made in *England* only, where *Ireland* is named, did bind in *Ireland* without any confirmation of them by Parliament in *Ireland*. The statute of the staple made in the 27th *Edw. 3.* in *England* doth name *Ireland*, and did bind in *Ireland* long before any confirmation of it there by Parliament. For within 5 years after the making of it in *England* it was executed in *Ireland*, and officers of the staple appointed according to that Act, as we may see by the Records following.

‘ Rex Vicecomitibus, Seneschallis, Constabulariis, Præpositis, Ballivis, et aliis Ministris et fidelibus suis in ——— et alibi in *Hiberniâ*, salutem. Sciatis, quod cum per nos, Prælatos, Duces, Comites, Barones, et Communitates Regni nostri *Angliæ*, pro nostrâ, ac ipsius Regni nostri *Angliæ*, ac terrarum nostrarum *Walliæ*, et *Hiberniæ*, salute, Ordinatum est, quod stapula lanarum, Coriorum, pellium lanearum, et plumbi, in certis locis in dicto Regno *Angliæ*, in terrâ *Walliæ*, ac etiam in *Hiberniâ* (viz.) apud *Dublin*, *Waterford*, *Drogheda*, & *Corke*, teneatur; nos de fidelitate et circumspectione dilecti nobis *Richardi Segrave* confidentes constituimus ipsum *Richardum* Majorem dictæ stapulæ in eadem Civitate *Dublin*, ad dictam stapulam regendam, nec non ad cognoscendum et procedendum in placitis et querelis de eadem tenendis, et ad sigillum pro officio illo deputatum

The King to the Sheriff, Seneschals, Constables, Provosts, Bailiffs, and other his Ministers and faithful Subjects in ——— and elsewhere in *Ireland*, greeting. Know ye, that whereas by us, and by our Prelates, Dukes, Earls, and Barons of our Kingdom of *England*, for our profit, as well as for that of our Kingdom of *England*, and of our lands of *Wales* and *Ireland*, it is ordained that the staple of wool, skins, wool-fells, and lead, should be kept in certain places in the said Kingdom of *England*, in the land of *Wales*, and also in *Ireland*, namely, at *Dublin*, *Waterford*, *Drogheda*, and *Corke*; we confiding in the fidelity and circumspection of our beloved *Richard Segrave*, have appointed him Mayor of the said Staple in the said City of *Dublin*, to manage the said Staple, as also to inquire and proceed in the pleas and disputes to be held concerning the same, and to keep the Seal appointed for the said Office, and faithfully to do

* tatum custodiendum, et ad
 * omnia alia & singulâ in dictâ
 * stapulâ ordinata, quam Ma-
 * jori, cæterisque Officiariis, et
 * ministris ejusdem stapulæ, sub
 * magno sigillo nostro *Hiber-*
 * * niæ in formâ patenti missi-
 * mus observandum conten-
 * ta, quatenus ipsum Majorem
 * et Officium suum concernent,
 * fideliter faciendum et exer-
 * cendum, juxta formam et ef-
 * fectum Ordinationis ejusdem;
 * Et ideo vobis mandamus, quod
 * eidem *Richardo*, tanquam Ma-
 * jori dictæ stapulæ dictæ Civi-
 * tatis *Dublin*, in omnibus quæ
 * ad officium illud, et ad vos &
 * vestrum quemlibet in hac par-
 * te pertinent, intendentes sitis,
 * respondentes & Auxilantes in
 * ejus, &c Teste *Almarico* Jus-
 * titiario apud *Dublin* 100. die
 * *Februarii*, Anno Regni nostri,
 * 320.

do and execute all other and
 singular things ordained in the
 said Staple, which we have sent
 in form of Letters Patent to the
 Mayor, and other Officers and
 Ministers of the said Staple un-
 der our great Seal of *Ireland*
 contained to be observed, so far
 as concerns the said Mayor and
 his office, according to the form
 and effect of the said Ordinance.
 And therefore we command you
 that you be aiding and assisting
 to the said *Richard*, as to the
 Mayor of our Staple of the said
 City of *Dublin*, in all things be-
 longing to the said office, and
 to you, and each of you, in this
 matter. In testimony, &c. Wit-
 ness *Almarick*, our Justice, at
Dublin, the 10th day of *Febru-*
ary, in the 32d year of our
 reign.

The like grant is made (mutatis mutandis) to *John Gran-*
sett and *John Nash*, to be constables of the Staple of the City
 of *Dublin*, bearing the same date and teste.

Rot. pat. 32. *Edw.* 3. indorso. *Robertus Mac-Miagh* ha-
 bet commissionem de Officio Majoris Stapulæ Civitatis, ut
 supra de Majore Stapulæ *Dublin*.—Pat. 32. *Edward* 3d, on
 the back-side. *Robert Mac-Miagh* has a Commission for the
 office of Mayor of the Staple of the City of *Cork* as above of
 the Mayor of the Staple of *Dublin*.

Thomas Stoughton, et *Willielmus Spicer* habent Commis-
 sionem de officio Constabulariorum ejusdem sub eadem datâ.
 —*Thomas Stoughton*, and *William Spicer*, have a Commis-
 sion of the office of Constables of the Staple of the same
 date.

That this statute was further executed in *Ireland* appears
 by this Record following.

Edw.

In bundell.
Brev. de 35.
Edw. 3 in
tar. Berm.

‘ *Edw. &c.* Seneschallo libertatis *Midie*, salutem. Quia
‘ *Richardus de Exoniâ*, Dominus de *Stackallen*, die Martis
‘ in festo St. *Grego. ii* Martiris
‘ Anno Regni nostri *Angliæ* 330.
‘ coram *Richardo Hadfor*, nuper Majore Stapulæ in villâ de
‘ *Droghedab*, *Roberto Moor*, &
‘ *Philippo Norton*, Constabulariis ejusdem Stapulæ, ad recognitiones debitorum in eadem Stapulâ accipiendos, deputatos, recognovit se debere
‘ *Roberto Babe*, Burgenfi de *Droghedab*, 100l. quas ei solvisse debuit ad festum St. *Dunflani* ex tunc proximè futurum, et eas ei nondum solvit, ut dicitur; tibi præcipimus, quod Corpus prædicti
‘ *Richardi de Exoniâ* (si laicus sit) Capias, & in prisonâ vestrâ, donec eidem *Roberto Babe* de debito illo Satisfaciatur, salvo custodiri facias, ac terras & tenementa, bona ac Cattalla, prædicti *Richardi de Exoniâ* in Balliva tuâ, per Sacramenta proborum & legalium hominum de Ballivâ tuâ, per quos rei veritas melius sciri poterit, juxta verum valorem eorundem in præsentia præfati *Roberti Babe*, vel alternati sui pro parte inde præmunendi, si interesse voluerit, diligentèr extendi & appretiare, et in manum nostram seisi-ri facias, et ea præfato *Roberto Babe*, quousque sibi de eodem debito fuerit satisfactum, liberari facias, tenenda juxta formam statuti inde editi. Et qualiter hoc præceptum nos-

trum

Edward, &c. To the Seneschal of the liberty of *Meath*, greeting. Whereas *Richard* of *Exeter*, Lord of *Stackallen*, on *Wednesday* on the feast of St. *Gregory* the Martyr, in the 33d year of our reign of *England*, before *Richard Hadfor*, late Mayor of the Staple of the town of *Drogheda*, and *Robert Moor* and *Philip Norton*, Constables of the same, deputed to take Recognizances of debts in the said Staple, acknowledged that he was indebted to *Robert Babe*, Burges of *Drogheda* in 100l. which he ought to have paid him on the feast of St. *Dunstan* thence next to come, and hath not yet paid him, as is said; we command you, that you arrest the body of the said *Richard* of *Exeter*, (if he be a Layman) and safely keep him in your prison, until he satisfies the said *Robert Babe* for the said debt, and that you diligently extend and appraise, and seize into our hands, the lands and tenements, goods and chattles of the said *Richard* of *Exeter* within your Ballywick, by the oaths of good and legal men of the same, by whom the truth can be best discovered, according to the true value of the same, in the presence of the said *Robert Babe*, or of his Attorney to be warned for that purpose, if he will be present, and the same to deliver over to the said *Robert Babe*, until he receives satisfaction for the said debt, to hold according to the form of the statute in that case provided. And how this our

precept

By
land
by us
of *E*
our la
of tha
statute
long a
Engla
I sh
record
statute
named
only,
Par

trum fuerit executum nobis in
 Cancellaria nostrâ *Hiberniæ*
 die Martis proximè post Fes-
 tum Cathedræ St. Petri proxi-
 mè futurum, ubicunque tunc
 fuerimus in *Hiberniâ*, scire
 facias per literas tuas sigilla-
 tas, et habeas ibi tunc hoc
 breve. Teste *Mauritio*, Co-
 mite *Kildare*, locum tenente
Jacobi le Botiller, Comititis de
Ormond, Justiciarii nostri *Hi-*
berniæ, apud *Dublin*, 30. die
Februarii Anno Regni nostri
 350. &c. In dorso brevis in-
 scribitus sic. *Richardus de*
Exoniâ de Stackallen non est
 inventus in Ballivâ meâ ab
 adventu istius brevis, ita quod
 corpus suum capi potest. Ita
 respondet *Johannes Hufse*, Se-
 neschallus *Midie*.

Inquisitio facta est de terris
 & tenementis bonis & Catallis
 ipsius *Richardi*, prout patet in
 Schedulâ huic brevi confuta.
 Responsum *Johannis Hufse*,
 Seneschalli *Midie*.

precept shall be executed you
 shall signify to us by your seal-
 ed letters returned into our
 Chancery of *Ireland* on the
Wednesday following the feast
 of the chair of St. Peter next,
 wherever we shall then be in
Ireland, and that you then
 have there this Writ. Witness
Maurice, Earl of *Kildare*, depu-
 ty to *James le Botiller*, Earl of
Ormond, our Justice of *Ireland*,
 at *Dublin*, the 3d day of *Febru-*
ary, in the 35th year of our
 reign. — On the back of the
 Writ it is thus inscribed. — *Richard*
 of *Exeter* of *Stackallen* is
 not found within my Ballywick
 from the delivery of this Writ,
 so that his body might be ar-
 rested. So answers *John Hufse*,
 Seneschal of *Meath*.

An Inquisition was held of
 the lands and tenements, goods
 and chattles, of the said *Richard*,
 as appears in a Schedule
 annexed to this Writ — The an-
 swer of *John Hufse*, Seneschal
 of *Meath*.

By these records it appears, that by a statute made in *Eng-*
land (for the commission to the Mayor of the Staple is, that
 by us the Dukes, Earls, &c. and commonalty of our Realm
 of *England* it is ordained for our Realm of *England*, and
 our lands of *Wales* and *Ireland*,) that *Ireland* is bound, and
 of that statute they take notice in *Ireland*, and execute that
 statute accordingly, without any confirmation of it there till
 long after the reign of K. *Edw.* 3. when all the statutes of
England were confirmed by the statute of 8 *Edw.* 4. Chap. 1.

I shall cite only one statute more (tho' many other
 records might be cited to this purpose upon divers other
 statutes, which for brevity are omitted,) which is the fore-
 named statute of 3 *Rich.* 2. made in *England* for *Ireland*
 only, against Absentees, that such as had land in *Ireland*

should return and reside thereupon, upon pain of forfeiture of two thirds of the profits of their lands there; which statute was a long time executed in *Ireland* without any confirmation of it there by Parliament, and that without any scruple, as by the records following appears.

Rot. Remom. Anno 6 Rich. 2.
Rot. 40.

‘ Rex Majori & Ballivis civitatis *Dublin*, Salutem. Præcipimus vobis, quod distringatis *Richardum Chamberlaine*, Civem *Dublin*, per terras, &c. Ita, &c. a die *S. Hillarii* in 15 dies, ad satisfaciendum nobis de 40s. quos nobis debet de pretio duarum partium fructuum Prebendæ de *Dunlavan*, quæ est *Johannis Ardery*, Clerici, extra terram *Hiberniæ* residentis, in manum nostram ratione moræ ipsius *Johannis* extra terram predictam, contra formam ordinationis per nos et Concilium nostrum *Angliæ* in ultimo Parlamento nostro apud *Westmonasterium* tento factæ, capte & existentis, et ad ulterius, &c. & habeas, &c. Datum 12^o Nov. Anno 6^o *Richardi* 2^{di}.

Ibid. Rot. 42.

‘ Confimile breve versus *Stephanum Fleming*, & *Johannem Comin* Capellanum, Procuratorem & Attornatum Magistri *Nicholai Fleming*, Rectoris Ecclesiæ de *Dromconragh*, in Diocesi *Midenfi*, et Prebendarii de *Tacomfian*, in Ecclesiâ Cathedrali *Fernenfi*, extra terram *Hiberniæ* residentis, ad satisfaciendum, &c. de pretio fructuum & proveniunt Ecclesiæ & Prebendæ prædictarum 6^o die *Junii*, 4^o.
‘ Regis,

The King to the Mayor and Bailiffs of the City of *Dublin*, greeting. We command you to distrain *Richard Chamberlaine*, citizen of *Dublin*, by his lands, &c. so as, &c. On the *Quindene* of *St. Hillary*, to satisfy us for 40s. which he owes us out of the value of two parts of the Profits of the Prebend of *Dunlavan*, the property of *John Ardery* Clerk, residing out of the land of *Ireland*, seized and remaining in our hands by reason of the stay of the said *John* out of the said land, contrary to the form of the ordinance made by us and our Council of *England* in our last Parliament held at *Westminster*; and to do further, &c. and have, &c. dated the 12th of *November*, in the 6th year of King *Richard* the second.

The like Writ issued against *Stephen Fleming* and *John Comin* Chaplain, Proctor and Attorney of *Nicholas Fleming*, Rector of the church of *Dromconragh*, in the diocese of *Meath*, and Prebendary of *Tacomfian* in the Cathedral Church of *Ferns*, residing out of the land of *Ireland*, to satisfy, &c. of the value of the fruits and revenues of the said Church and Prebend, from the 6th day of *June* in the 4th year of the King, and from thence-

' Regis, & deinceps, prout ma-
 ' nuceperit, occasione moræ,
 ' &c. contra formam cujusdam
 ' ordinationis per nos et consi-
 ' lium nostrum *Angliæ* in Parli-
 ' amento nostro apud *Westmo-*
 ' *nafterium* nuper tento factæ,
 ' existentis Datum 26o. *A-*
 ' *prilis* Anno 6o. *Richardi* 2di.

thenceforth, as he gave us secu-
 rity, on account of his stay, &c.
 against the form of a certain
 Ordinance made by us and our
 Council of *England* in our Par-
 liament lately held at *Westmin-*
ster. Dated the 26th of *April* in
 the 6th year of *Richard* the se-
 cond.

By this last Record it appears, that this statute being made
 in the third of *Richard* 2d, was presently executed there:
 For the said *Fleming* and *Comin* were to answer the King's
 profits of said Rectory and Prebend from the 6th of *June* in
 the 4th of his reign, and this was, for that the said *Nicholas*
Fleming was absent out of *Ireland*——*Contra formam cu-*
jusdam ordinationis per nos & consilium nostrum Angliæ, in
Parliamento nostro apud Westmonasterium nuper tento factæ,
 ——was absent out of *Ireland* against the form of an ordi-
 nance made in a Parliament lately held at *Westminster*, by
 us and our Council of *England*; ——so that nothing can be
 more clear, than that an act in *England* made for *Ireland*
 did bind there without any confirmation made by Parliament
 there; and of the Execution of this statute of 3d. *Richard*
 2d. both in the time of him, and his three next successors,
 there be hundreds of records remaining in the Remembran-
 cer's office of the Exchequer; and yet this statute was never
 otherwise in that time confirmed but by receiving and exe-
 cuting it. Nay, which is more, it appears by a notable re-
 cord in the time of *Richard* the 2d, that the law was de-
 clared to be, that an act made in *England* for *Ireland* could
 not be dispensed with by the Governors of *Ireland*; but
 suit must be made for it to the King and Council of *Eng-*
land, and thereupon by the King's command directions
 given, as appears by the following record.

' Rex Thesaurario, & Baro-
 ' nibus de Scaccario suo *Hiber-*
 ' *niæ* salutem. Cum, inter cæ-
 ' tera, in quodam Parlamento
 ' nostro apud *Westmonasterium*
 ' dudum tento facta ordinatio
 ' extiterit, quod omnes gentes,
 ' cujus-

The King to the Treasurer Pro Rege:
 and Barons of his exchequer of James Or-
Ireland, greeting. Whereas, a-mond was
 mong other things, an Ord-then Justice:
 nance was made in our Parlia-
 ment lately held at *Westminster*,
 that all People, of what condi-
 tion

• cujuscunque conditionis fue-
 • rint, terras, redditus, benefi-
 • cia, officia, aut possessiones
 • quæcunque in terrâ nostrâ *Hi-*
 • • *bernæ* habentes, se traherent
 • versus dictam terram, ita quod
 • essent ibidem ante festum na-
 • • *tivitatis. S. Johannis Baptis-*
 • • *tæ*, Anno Regni nostri 30. et
 • ex tunc ibidem residerent &
 • morarentur in auxilium & for-
 • tificationem fidelium ligeorum
 • nostrorum ejusdem terræ, con-
 • tra malitiam *Hibernicorum* Ini-
 • micorum & Rebellum nostro-
 • rum ibidem, et quod omnes
 • alii, qui Castra & fortalitia ha-
 • beant in dictâ terra, ea face-
 • rent reparari, et in statu com-
 • petenti tenere, et bonam &
 • securam custodiam in iisdem
 • pro salvatione eorundem po-
 • nerent sub periculo incum-
 • benti. Et si illi, qui hujus-
 • modi terras, redditus, benefi-
 • cia, officia, aut alias posselli-
 • ones quæcunque in terra nos-
 • tra prædicta obtinent, ab ea-
 • dem terra post festum præ-
 • dictum ex rationabili causa ab-
 • sentes forent, tunc gentes de-
 • fensabiles loco eorum pro
 • tempore dictæ absentia suæ,
 • prout necessitas in hac parte
 • requirit, habito respectu ad
 • qualitatem & valorem dicta-
 • rum terrarum, reddituum, of-
 • ficiorum, beneficiorum, & pos-
 • sessionum prædictarum, ad ean-
 • dem terram defendendam mit-
 • tere et ibidem invenire tene-
 • rentur; quod si non facerent
 • duæ partes exituum et profi-
 • cuorum dictorum reddituum,
 • • Officiorum, Beneficiorum, et
 • • Possessionum

tion soever they were, having
 lands, rents, benefices, offices,
 or possessions whatsoever in our
 land of *Ireland*, should with-
 draw towards the said land, so
 as to be there before the feast
 of the Nativity of St. *John* the
 Baptist in the 3d year of our
 reign, and should from thence-
 forth reside and abide there in
 aid and defence of our faithful
 Lieges of the said land, against
 the malice of our *Irish* Enemies
 and Rebels there: And that all
 others, who have castles and
 fortresses in the said land, should
 cause them to be repaired, and
 hold them in a proper condi-
 tion, and should place therein a
 good and sufficient ward for
 their safe keeping, under the
 peil thereon incumbent. And
 if they, who obtain such lands,
 rents, benefices, offices, or other
 possessions whatsoever, in our
 said land, should for reasonable
 cause absent themselves from
 thence after the said feast, that
 they should be obliged to send
 and find there defensible Peo-
 ple in their places, during the
 time of their said absence, as
 necessity shall upon that occasion
 require, respect being had to
 the quality and value of their
 said lands, rents, offices, bene-
 fices, and possessions, to defend
 the said land; which if they
 did not do, two parts of the is-
 sues and profits of the said rents,
 offices, benefices, and posselli-
 ons should be levied, and con-
 verted to the custody and de-
 fence of the said land, by the
 advice of our Justices and Go-
 vernours

Possessionum levarentur, & in
 custodiâ & defensione terræ
 prædictæ, juxta advisamen-
 tum Justiciariorum & Guber-
 natorum dictæ terræ, qui pro
 tempore fuerint, converteren-
 tur; excepto quod de bene-
 ficiis eorum, qui sunt in servi-
 tio nostro, vel in scholis Uni-
 versitatis nostræ studentes, aut
 ab eadem terrâ ex causâ rati-
 onabili de licentiâ nostrâ sub
 magno sigillo nostro Angliæ
 absentes fuere, nisi tertia pars
 valoris dictorum beneficiorum,
 ultra ordinaria & necessaria
 onera eorundem, et hoc juxta
 certificationem Ordinariorum
 locorum eorum, pro custodiâ
 & defensione ejusdem terræ
 caperentur, prout in ordina-
 tione prædicta plenius conti-
 netur. Ac jam intelleximus,
 quod nonnullæ Personæ do-
 minia, terras, redditus, bene-
 ficia, possessiones, & officia,
 infra eandem terram habentes,
 extra terram nostram præ-
 dictam a tempore ordinationis
 prædictæ contra formam ejus-
 dem, absentes sint, diversas
 literas nostras patentes sigillo
 nostro, quo utimur in terra
 prædicta, signatas, de licentiâ
 se absentandi extra terram
 prædictam habentes, et omnia
 exitus, redditus & proficua,
 dominiorum, terrarum, reddi-
 tum, possessionum, et offi-
 ciorum suorum prædictorum,
 tempore absentiae suæ præ-
 dictæ ad usus proprios recipere
 et habere per certa tempora a
 Justiciariis nostris terræ præ-
 dictæ, ac aliis Gubernatoribus
 ejusdem

vernors of our said land for the
 time being; excepting, that
 out of the benefices of those
 who are in our service, or are
 Students in the schools of our
 University, or are absent from
 the said land for reasonable
 cause by our licence under our
 great seal of *England*, only the
 third part of the value of the
 said benefices, beyond the or-
 dinary and necessary charges
 thereof, and that according to
 the certificate of the Ordinaries
 of the places, should be taken
 for the wardship and defence
 of the said land, as in the said
 ordinance is more fully contain-
 ed. And now we are given to
 understand, that some persons
 having Lordships, lands, rents,
 benefices, possessions, and of-
 fices, within our said land, have
 been absent from thence from
 the time of making the said or-
 dinance, against the form there-
 of, and have obtained divers
 letters patent, signed with our
 seal, which we use in our said
 land, for licence to absent them-
 selves, out of the said land, and
 to receive and take all the is-
 sues, rents, and profits of their
 Lordships, lands, rents, posses-
 sions, and offices, during the
 time of their absence, for cer-
 tain times appointed by our Jus-
 tices of the said land, and other
 our Governors there constituted
 in our name; and further, some
 of the said Absentees have pro-
 cured to be directed to you di-
 vers of our writs likewise sign-
 ed with our seal, lest you should
 in our said Exchequer trouble,

ejusdem terræ nomine nostro
 constitutis. Et super hoc ali-
 qui hujusmodi absentium di-
 versa breviam nostra sigillo nos-
 tro prædicto similiter signa-
 ta, ne ipsos absentes contra
 vim & effectum dictarum li-
 terarum nostrarum coram vo-
 bis in dicto Scaccario in ali-
 quo impetieritis, molestaretis,
 aut gravaretis, vobis dirigi
 procurarunt; cæteri vero, ac
 eorum Procuratores, Attorna-
 ti, & Occupatores dominio-
 rum, terrarum, tenementor-
 um, possessionum, beneficio-
 rum, & officiorum dictorum
 Absentium hujusmodi literas
 de licentia se absentandi in
 forma prædicta coram vobis
 in dicto Scaccario monstra-
 runt, prætendendo se de exiti-
 bus et proficuis duarum par-
 tium possessionum suarum in
 terra prædicta erga nos ad
 idem Scaccarium exonerari,
 ac quietos fore, ordinatione et
 absentia prædicta non obsta-
 te; quarum prætextu vos ad
 levationem duarum partium
 exituum & proficuum præ-
 dictorum ad opus nostrum, in
 auxilium & sustentationem gu-
 errarum & gubernationis ter-
 ræ prædictæ, faciendam, hu-
 cusque distulistis, et adhuc
 differtis, in nostri damnum
 præjudicium & jacturam, &
 contra formam ordinationis
 prædictæ, maxime cum in ea-
 dem ordinatione plenius & ex-
 pressè continentur, quod hu-
 jusmodi Absentes, si erga nos
 exonerari deberent, literas sub
 magno Sigillo nostro Angliæ

de

molest, or grieve them, against
 the force and effect of our said
 letters: and others also, and
 their Proctors, Attorneys, and
 Tenants, of their Lordships,
 lands, tenements, possessions,
 benefices, and offices, of the
 said Absentees, have produced
 to you in our said Exchequer
 such letters licensing their ab-
 sence in form aforesaid, pre-
 tending that they ought to be
 exonerated and quieted from
 paying the issues and profits of
 two parts of their possessions in
 the said land against us in the
 said Exchequer, notwithstanding
 the said Ordinance and their
 absence; under which pretence,
 you have hitherto delayed, and
 yet do delay, to levy the said
 two parts of the said issues and
 profits to our use, in aid and
 support of the War and govern-
 ment of our said land, to our
 damage, prejudice, and loss,
 and against the form of the said
 ordinance, more especially, as
 in the said ordinance it is fully
 and expressly contained, that
 such Absentees, if they ought
 to be exonerated towards us,
 that they should have licences
 of absence under our great Seal
 of *England*; and furthermore,
 that our said Justices and Go-
 vernors of our said land, for the
 time being, have not power to
 remit, relax, pardon, or other-
 wise to overthrow, what hath
 been ordained by Us and our
 Council in *England* in our Par-
 liaments for the reforming of
 our said land, without protec-
 tion made for the same to us

and

de licentia absentiae suae habe-
 rent, et insuper, quod dicti
 Justiciarii & Gubernatores
 nostri terrae praedictae, pro
 tempore existentes, potesta-
 tem non habent quicquid per
 nos & consilium nostrum in
 Anglia in Parliamentis nostris
 pro emendatione terrae nostrae
 praedictae ordinantur, remitte-
 re, relaxare, pardonare, seu
 aliter pervertere, absque pro-
 secutione inde erga nos &
 consilium nostrum Angliae fac-
 ta, et mandato nostro inde
 directa. Ac volentes proinde
 quod nobis de exitibus et pro-
 ficuis duarum partium, sive
 tertiae partis, quorumcunque
 dominiorum, terrarum, tene-
 mentorum, reddituum, pos-
 sessionum, beneficiorum, & of-
 ficiorum universorum & sin-
 gulorum absentium extra ter-
 ram praedictam, a tempore
 ordinationes praedictae, et de-
 inceps, juxta formam ejusdem
 ordinationis, ad opus nostrum
 integrè leventur & recipian-
 tur, literis nostris, aut brevi-
 bus praedictis, ante hoc tem-
 pus factis, seu in posterum per
 Justiciarios nostros terrae prae-
 dictae, qui pro tempore fue-
 rint, Sigillo nostro *Hiberniae*
 praedicto Sigillandis, confici-
 endis, non obstantibus. Et
 ideo vobis mandamus, quod
 ad levationem dictarem dua-
 rum partium, sive tertiae par-
 tis, dictorum exituum & pro-
 ficuorum cum omni celeritate,
 juxta formam ordinationis prae-
 dictae, qua fieri poterit, se-
 cundum legem & consuetudi-

and our Council of *England*,
 and our mandate for that pur-
 pose directed to them; and we
 being for this cause willing, that
 out of the issues and profits of
 two parts, or of the third part,
 of all Lordships, lands, tene-
 ments, rents, possessions, bene-
 fices, and offices, of all and sin-
 gular Absentees out of the said
 land, from the time of the said
 ordinance, and afterwards, should
 be levied and received to our
 use, notwithstanding our letters
 and writs before this time made,
 or hereafter by our Justices of
 our said land for the time being
 to be made and sealed by our
 said seal of *Ireland*. And there-
 fore we command you, that you
 proceed to levy the said two
 parts, or the third part of the
 said issues and profits, with all
 speed possible, in pursuance to
 the form of the said Ordinance,
 according to the laws and cus-
 toms of our said land, notwith-
 standing our said letters patent
 and writs. Witness the said
 Justice at *Kilkenny* on the 20th
 day of *September*.

By the Justice and Council;

' nem terræ nostræ prædictæ,
 ' procedatis, literis patentibus
 ' & brevibus nostris prædictis
 ' non obstantibus Teste præ-
 ' fato Justiciario apud *Kilkenny*,
 ' 20. die *Septembris*. Per ip-
 ' sum Justiciarium & Consili-
 ' um.'

The main and chief end in raising all these records is to prove, that before any confirmation of the statutes of *England* and *Ireland* by Parliament there, they were there received and executed, and that notwithstanding those statutes, which the Author supposes were made there, whereby the statutes of *England* should not be binding in *Ireland* without consent of the Parliament there, yet after that, statutes made in *England* only both where *Ireland* was not named, and also in those where *Ireland* was named, and statutes made in *England* for *Ireland* only, were received and executed there, notwithstanding any such supposed statute as the Author speaks of; and therefore, if any such there were, yet, even by the Judges of *Ireland*, were they esteemed void also, would they not some time or other have made question of the executing the statutes of *England* there? But every ordinary understanding man would perceive, that seeing the Parliaments in *England* did bind *Ireland*, Parliaments in *Ireland* could not bind *England*, or take away that power from them, which they had formerly over them. And therefore *Ireland* hath ever been, and still is subject to the statutes of *England*, unless the Author can shew us how, and when, the law was altered, which I believe he never will be able to do. One thing more by the way may be observed, what inconveincy, mischief, and prejudice his Majesty and the whole Kingdom may receive, if the laws made in *England* should not bind in *Ireland*; for then nothing could be established there for a law but what themselves would have; so that if his Majesty would have any further laws made there, either for the true worship and service of God, or for the advancing of his just Revenues, and for the good and settlement of the kingdom, yet he shall be able to effect nothing unless they please, and what their pleasure is they have made all the *British* Protestants too sensible

sensible of by their actions. There is none that knows *Ireland* but well understands, how that kingdom did flourish, and grow rich and plentiful by the *British* plantations there, how his Majesty's yearly revenue grew to a considerable sum, how the kingdom began every where to be civilized by the mixture of the *English* among the Natives, and we now see how all is utterly destroyed by them, and nothing but misery and desolation through the whole kingdom. And yet the King, being intituled before the rebellion to the greatest part of the Province of *Conaught*, and to part of some other Counties, and since the Rebellion, to the greatest part of the whole kingdom, he may yet again raise a great and just yearly revenue thereout, and, by God's blessing, in time make it again a flourishing kingdom. But if they, which have forfeited both their estates and lives to his Majesty may have a free Parliament, as they call it, before some person acceptable to them, and have *Poining's* Act of 10. *Hen. 7.* and all statutes enlarging the same, suspended, as they desire in their remonstrance at *Trim* the 17th of March 1642, and yet themselves out of the reach of the Parliament of *England*, it cannot be so much as thought, that they who shall be of such a Parliament, and who have done so much already, and expressed what they would further to be done, will rather root out the Protestant Religion, with all the *British* Professors thereof, than suffer any of them so much as to remain in *Ireland*, and will make such Laws, as shall be agreeable only to their own humours, and make the King beholden to them, if they shall please to give him any little pittance of that, which is now all his right, or of which, if he shall restore any part to them, or give them their lives, they must acknowledge it to be only from his Majesty's bounty and mercy to them. And therefore, the Law being, as is formerly proved against the Author, and it being so inconvenient, mischievous, and prejudicial, that it should be otherwise, there cannot be so much as any good reason shewed, why any other construction should be now made of it, or why it should be altered, which, if it should, may tend in so high a degree to the prejudice of the true worship of God, his Majesty's Honour and Profit, and the hurt and ruin of that kingdom.

But

But it may be objected, that this were a most unreasonable thing, that the statutes in *England* should bind in *Ireland*, being another kingdom, where they are not named. For how can it be supposed, that they in *Ireland* can have any notice of the statutes made in *England*, and how is it possible they should obey them?—Answer. That in truth it were a hard case, that Acts in *England* should bind in *Ireland*, where they are not named, unless they had notice of them. Therefore care was taken, and it was observed in *England*, that statutes made there, which were thought fit to be executed in *Ireland*, were sent from thence under the King's Seal to the Chancellor of *Ireland* to be enrolled in the Chancery there, and commanded to be published in every County in that land, and firmly to be observed; and from the time of the publication of them they were of force there, and there executed. A precedent of this is in *Davis* (b) in the time of King *Edw.* 1. And in *Anno* 35. *Edw.* 1. Rot. 16. in *Bermingham* tower, the statutes *de Assportatis Religiosorum* are by the like writ sent thither, and commanded to be put in execution. The like precedent is in the Red Book of the Exchequer in *Ireland* of statutes made in *England*, and transmitted into *Ireland* in the 17th of *Edw.* 2. which was but four years after this supposed statute of 13th of *Edw.* 2. which precedent followeth.

(b) Discov.
p. 122.

Memorandum, quod 4^o. die *Maii*, anno *Edw.* filii Regis *Edw.* 17^o. Dominus Rex mandavit Cancellario suo *Hiberniæ* quædam statuta apud *Lincoln* et *Eboracum* edita, et eadem publicari & observari præcepit per breve, quod sequitur in hæc verba.

• *Edwardus*, &c. Cancellario
• suo *Hiberniæ* salutem. Quæ-
• dam statuta per nos, de assen-
• su Prælatorum, Comitum,
• Baronum, et Communitatis
• Regni nostri apud *Lincoln*, et
• quædam alia statuta postmo-
• dum apud *Eboracum* facta,

• quæ

Memorandum, that on the 4th day of *May*, in the 17th year of the reign of *Edward*, Son to King *Edward*, the King sent to his Chancellor of *Ireland* certain statutes made at *Lincoln* and *York*, and commanded them to be published and observed therein by the following writ.

Edward, &c. to his Chancellor of *Ireland*, greeting. We send to you under our Seal certain statutes made by us at *Lincoln* by the assent of our Prelates, Earls, Barons, and Commons of our kingdom, and certain other statutes made afterwards at

York

quæ in dictâ terrâ nostrâ *Hiberniæ*, ad communem utilitatem Populi nostri ejusdem terræ, observari volumus, vobis mittimus sub sigillo nostro, mandantes, quod statuta illa in Cancellariâ nostrâ custodiri, ac in rotulis ejusdem Cancellariæ irrotulari, et sub sigillo nostro, quo utimur in *Hiberniâ*, in formâ patentium exemplificari, et ad singulas placeas nostras in terrâ prædictâ, et singulos Comitatus ejusdem terræ, mitti faciatis per brevia nostra sub dicto sigillo Ministris nostris placearum illarum, et Vicecomitibus dictorum Comitatum, mandantes, quod statuta illa coram ipsis publicari, et ea in omnibus & singulis suis articulis, quantum ad eorum singulos pertinet, firmiter faciatis observari. Teste meipso apud *Nottingham* 20^o, die *Novembri*, anno Regni nostri 17^o. Per ipsum Regem et Consilium.

York, which we will should be observed in our said land of *Ireland*, for the common profit of the people thereof; commanding, that the said statutes should be kept in our Chancery, and inrolled among the rolls there, and be exemplified under the Seal which we use in *Ireland* in form of letters patent; and that you cause them to be sent to every of our places, and into every County of that land, by our writs under the said Seal, to the Ministers of our said places, and to the Sheriffs of the said Counties, commanding, that you cause the said statutes to be published before them, and to be firmly observed in every article of them, as far as appertaineth to each of them. Witness myself at *Nottingham* on the 20th day of *November*, in the 17th year of our reign. By the King and Council.

And after this writ are the statutes of *Lincoln* and *York* entered in the Red Book of the Exchequer.

That the statutes of *England*, after their sending over, and publishing, as aforesaid, were of force in *Ireland*, and executed there, appears by the following Records among others.

Upon an information in the Exchequer, that the Predecessors of the Prior of the house of St. *Michael* in *Dublin* had purchased certain lands in *Lougher*, post statutum Domini Regis editum, quod terræ et tenementa non devenirent ad animum Mortuam,—after the statute of Mortmain was published,—a writ issued to the Exchequer, that per sacramentum proborum & legalium hominum inquireret inde rei veritatem, & si invenerit ita esse, tunc prædictas terras capiat

34. Edw. 1.
Rot. 17. in
tur. B. r-
ning.

piat in manus Domini Regis,—that an inquiry should be held and the truth found out by oath, and if it were found to be so, then that they should seize the said lands into the King's hands—which enquiry was accordingly had, and the Jury found, *quod Prædecessores prædicti Prioris habuerunt ingressum in prædictis tenementis diu ante statutum prædictum promulgatum in hac terrâ*,—that the Predecessors of the said Prior entered into the said tenements long before the promulgation of the said statute in this land.—By which it appears, that if the purchase had been made after the publishing of the statute, the lands had been seized as forfeited by virtue of that statute.

Office Rem. Anno 6th Edw. 2. in the Exchequer, a writ *ad quod*
6^o. Edw. 2. *damnum* issued to *John Wogan*, Lord Justice, *vel ejus locum*
Ro. 20. *tenenti*, or to his Deputy, commanding, that he should inquire *per sacramentum proborum et legalium hominum de ballivâ suâ si sit ad damnum vel præjudicium nostrum*, &c.—on the oaths of honest and legal men of his balliwick, if it be to our damage or prejudice, &c.—if he should grant to the Prior of the house of St. Leonard of Dundalk four acres of pasture, which formerly he had purchased of the cominality of Dundalk without licence, &c. for which they were seized into the King's hands, as he was informed. Upon which a Jury was impanelled and sworn, who found that it was not to the damage of the King to regrant the said four acres to the said Prior, but rather to his profit, for celebrating *divina pro animabus Regum*, &c.—divine service for the souls of the Kings, &c.

• Et dicunt etiam, quod Antecessores *Theobaldi de Verdun*,
• militis, cito post conquestum
• *Hiberniæ*, qui habuere diversas terras in *Urgalia*, primo
• incorporaverunt Villam de
• *Dundalk*, et ibi fecerunt diversos Burgenses, et ipsos
• efflaverunt de diversis Burgagiis, et bundas eis assignaverunt,
• reddendo eis et eorum hæredibus 12d. de quolibet
• Burgagio, pro omnibus serviciis. Et prætextu concessionis
• eisdem

And they say also, that the Predecessors of Sir *Theobald de Verdun*, soon after the conquest of *Ireland*, who had diverse lands in *Urgal*, first incorporated the town of *Dundalk*, and constituted there divers Burgesses, and infeoffed them with divers Burgages, and assigned bounds to them, rendering them and their heirs 12d. of each Burgage, in lieu of services. And that by virtue of the grant made to the said

Bu

eisdem Burgesibus factæ
 certa tenementa prædictæ
 Villæ assignabantur ad com-
 muniā pasturæ ibidem ha-
 bendam, et pro indiviso te-
 nendam in perpetuum, absque
 aliquo redditu seu servitio
 quocunque eis, vel hæredi-
 bus suis, pro hujusmodi com-
 muniā pasturæ faciendæ. Et
 prædictæ 4 acraë terrarum,
 cum pertinentiis, fuere quæ-
 dam pars communis pasturæ
 Villæ prædictæ. Et dicunt,
 quod Prior St. *Leonardi* de
Dundalk acquisivit prædictas
 4 acras pasturæ, cum perti-
 nentiis, a prædictis Burgesi-
 bus et Ballivis et totâ commu-
 nitate de *Dundalk*, ex una-
 nimi assensu eorundem in li-
 beram puram & perpetuam
 eleemosinam. Et quia præ-
 dictus Prior, sine licentiâ Do-
 mini Regis, prædictas 4 acras
 pasturæ, cum pertinentiis, ad-
 quisivit post publicationem
 statuti Domini Regis, Patris
 Domini Regis nunc, de terris
 et tenementis ad manum
Mortuam non ponendis, editi,
 Escheator Domini Regis in
Hiberniâ prædictas 4 acras
 pasturæ, cum pertinentiis sei-
 sivit in manum Domini Regis,
 in cujus manu adhuc existunt
 occasione prædictâ, &c. Et
 sciendum, quod prædicta in-
 quisitio, una cum brevi, li-
 beratur *Adæ Goodman*, At-
 tornato prædicti Prioris, de-
 ferenda Domino Regi in *An-*
gliâ.

Burgeses certain tenements of
 the said town were assigned for
 a common of pasture to be had
 there, and to be held undivid-
 ed for ever, without any rent
 or service to be paid to them or
 their heirs for such common of
 pasture. And the said 4 acres of
 land, with the appurtenances,
 were a part of the common
 of pasture of the said town.
 And they say, that the Prior of
 St. *Leonard* of *Dundalk* pur-
 chased the said 4 acres of pas-
 ture, with the appurtenances,
 from the said Burgeses and
 Bailiffs, and the whole commu-
 nity of *Dundalk*, by their u-
 nanimous consent, in free pure
 and perpetual alms. And be-
 cause the said Prior purchased
 the said 4 acres of pasture,
 with the appurtenances, with-
 out the King's licence, after
 the publication of the statute of
Mortmain made by our Lord
 the King, Father of our Lord
 the King that now is, the
 King's Escheator in *Ireland*
 seized into the King's hands the
 said 4 acres of pasture, with
 the appurtenances, in whose
 hands they yet remain on the
 said account. And be it known,
 that the said inquisition, toge-
 ther with the writ, was deli-
 vered to *Adam Goodman*, At-
 torney of the said Prior, to be
 carried to the King into *Eng-*
land.

By

By these records it is evident, that statutes made only in *England*, although *Ireland* was not named (as in this statute of *Mortmain* made the 7th of *Edw. 1.* it was not) yet only by the publishing of them in *Ireland* they were of force, and there executed, without any other confirmation by Act of Parliament in *Ireland*, or any thing else there done; which is the rather to be observed in respect to that, which shall be hereafter said concerning the exposition of the statute by the Author cited.

And these Precedents alone are enough to satisfy any reasonable man, that the statutes of *England* did bind in *Ireland* after they were there published, without any confirmation of them by Parliament there, and the Records before mentioned do make it apparent without contradiction.

The Author for confirmation of his opinion, that *Ireland* is not bound by the statutes made in *England*, till they are confirmed there by Parliament, cites two year books, the 20. *Hen. 6.* fol. 8. out of which all that can be in truth observed is only the opinion of two Judges against two, but no judgment: for although the first Judge delivers not any opinion, whether a statute made in *England* binds *Ireland*, (nor do any of them deliver any opinion, that a statute made in *England* cannot bind *Ireland*, but only two of them say, that a statute made in *England*, *exempli gratia*, for a tenth, which is made for *England*, doth not bind *Ireland*) but the Defendant having pleaded a prescription, that the Justice of *Ireland* hath power to assemble Parliaments, and to make laws, that a Parliament was summoned, and a law made, that every Officer should by a certain day occupy his said Office in person, or forfeit it, and that the Plaintiff in the *Scire facias* occupied the office in question by a Deputy, and thereupon his grant became void, and the office was granted to the other. Upon this plea the Plaintiff demurred, and upon this demurrer *Ascough* grounds his opinion. For by the demurrer (says he) the Plaintiff confessed the Defendant's plea to be true; and because the Plaintiff did not deny the prescription, therefore it should be intended by them, that there is such a custom in *Ireland*; because it is a land, in which they are not bound in *England* to take notice what is the law there, but only by the party's allegation, and therefore his opinion is only upon the pleadings,

and

and not upon the matter, whether a statute in *England* binds *Ireland*; neither doth the matter indeed properly come into the case. Therefore, there being no judgment given in that case, but only opinions of two against two, and that it may be on the sudden, which upon more serious consideration they might well alter, this case adds no strength at all to his opinion.

Upon this case the Author observes three points, as he calls them. First, that the Council in *Ireland* had power, in the absence or vacancy of a Lieutenant, &c. to elect a Justice. Secondly, that the Justice had power to summon a Parliament, and to enact laws without commission from the King; which two points may be granted him, as being not pertinent to the case in question. Thirdly, that statutes made in *England* do not bind in *Ireland*, unless approved there. This (as I said before) is only the Substance of the opinion of two Judges, and the contrary whereof hath been evidently proved before. And it appears plainly by that very case, that these two were mistaken in their opinions. For, if the Author had well observed it, this very case doth prove as much, and overthrows the strength of his argument. For, if *Ireland* be a kingdom separate from *England*, with which they of *England* have nothing to do, and that the Government there cannot bind in *Ireland*, how comes it to pass, that a suit should be there commenced, and plea holden in an ordinary court of Justice for an office in *Ireland*, and against which there is no exception taken? And therefore, as it seems agreed by all the five Judges, that they might hold plea of things in *Ireland*, and then it may be as well for lands in *Ireland*, as for an office there. And if they in *England* have power to hold plea in the Courts of Justice there for things in *Ireland*, as by this case it appears they have, doubtless *Ireland* is bound by the judgments of the Courts of Justice in *England*, or otherwise it would have been ridiculous in them to hold pleas of things, with which they had nothing to do, and of which, if they had given judgment, they could not award execution.

If the King grants an office in *Scotland*, a *Scire facias* will not lye out of the Chancery of *England* to avoid it. Because *Scotland* is a kingdom divided and separated from *England*, whose laws are not current there. But it appears
in

in this case to be otherwise for *Ireland*; for the Courts in *England* hold plea of an office granted in *Ireland*.

We find also, that the other Courts of Justice in *England* had power to execute in *Ireland* their judgments given in *England*. As in the Judicial Register fol. 43. b. a *Fieri facias* against the Archbishop of *Dublin*, directed to the Justice of *Ireland*, upon a judgment given in the Common Pleas in *England*.

• Rex Justiciario suo *Hiberniæ*
• salutem. Cum nuper Vice-
• comiti nostro *Midie* præcipe-
• rimus, quod de terris & ca-
• tallis *Roberti Wickford*, Cle-
• rici, jam Archiepiscopi *Dub-*
• *lin*, in ballivâ suâ fieri faceret
• 10l. et illas haberet co-
• ram Justiciariis nostris apud
• *Westmonasterium* 15 â. paschæ
• proximè præteritæ, ad red-
• dendum *Thomæ de R. Clerico*,
• de arrearagiis cujusdam annui
• redditus 10l. quas idem *T.* in
• Curia Domini *Edwardi*, nu-
• per Regis *Angliæ* (viz.) ter-
• mino *S. Mich.* anno Regni sui
• 330 coram *R. de T.* et sociis
• suis, tum Justiciariis ejusdem
• avi nostri de Banco, per con-
• siderationem ejusdem Curie
• recuperaverit versus eum, sin-
• gulis annis ad festum *S. Mi-*
• *chaelis* solvendas, quas qui-
• dem 10l. eidem *Thomæ* sol-
• visse debuit ad festum *S. Mi-*
• *chaelis* proximè præteritum,
• et eas ei nondum solvit, ut
• dicitur. Et idem Vicecomes
• præfatis Justiciariis nostris,
• &c. ad diem illum mandavit,
• quod præfatus *Robertus*, Cle-
• ricus, fuit Archiepiscopus
• *Dublin* in *Hiberniâ*, et nullas
• habuit terras aut tenementa,
• bona, aut catalla, in ballivâ
• suâ,

The King to his Justice of *Ire-*
land, greeting. Whereas we
commanded our late Sheriff of
the county of *Meath*, that he
should levy 10l. out of the
lands and chattles of *Robert*
Wickford, Clerk, now Arch-
bishop of *Dublin*, lying in his
ballywick, and return them to
our Justices at *Westminster* on
the quindene of *Easter* next fol-
lowing, to pay them over to
Thomas de R. Clerk, out of the
arrearsages of a certain annual
rent of 10l. which the said
Thomas in the Court of King
Edward, late King of *England*,
viz. in *Michaelmas* term in the
33d year of his reign before
R. de T. and his colleagues,
then Justices of the Bench of
our said Grandfather, recover-
ed by judgment against him,
payable every year on the feast
of *St. Michael*; which 10l. he
ought to have payed to the
said *Thomas* on the feast of *St.*
Michael last past, and has not
yet paid him, as it is said. And
the said Sheriff on the said day
returned to our said Justices,
&c. That the said *Robert*
Wickford, Clerk, was Arch-
bishop of *Dublin* in *Ireland*, and
had no lands or tenements,
goods or chattles within his
ballywick,

* suâ, unde aliquid denariorum
 * fieri potuerit. Et cum hoc
 * testatum extiterit in eâdem
 * Curiâ nostrâ ex parte ejusdem
 * Thomæ, quod idem Robertus
 * Archiepiscopus Dublin in Hi-
 * berniâ fuit, et in terrâ nostrâ
 * Hiberniæ habuit diversa bona
 * et catalla, terras & tenementa,
 * tam de perquisito suo proprio,
 * quam ratione Archiepiscopatu
 * sui prædicti, unde præ-
 * dictæ 10l. fieri potuerint, et
 * ideo vobis mandamus, quod
 * de terris et catallis ejusdem
 * Roberti, jam Archiepiscopi, in
 * terrâ nostrâ Hiberniæ fieri fa-
 * cias prædictas 10l. et illas ha-
 * beas coram, &c. in octabis
 * Michaelis ad reddendum præ-
 * fato Thomæ de arrearagiis red-
 * ditus prædicti, et habeas ibi
 * hoc breve. Teste, &c.

balliwick, from whence any
 money could be levied. And
 whereas it was alledged in our
 said Court on the part of the
 said Thomas, that the said Ro-
 bert was Archbishop of Dublin
 in Ireland, and had divers goods
 and chattels, lands and tene-
 ments in Ireland, both of his
 own purchase, and of his said
 Archbishoprick, out of which
 the said 10l. could be levied,
 therefore we command you,
 that you levy the said 10l. out
 of the lands and chattles of the
 said Robert, now Archbishop,
 in our land of Ireland, and have
 them before, &c. on the oc-
 tave of Michaelmas, to render
 to the said Thomas, out of the
 arrearages of the said rent, and
 have this writ there. Witness,
 &c.

The like we find in the 33d of Edw. 1. of a judgment ^{33. Edw. 1.}
 given in the Exchequer in England, and execution awarded ^{Rot. 24. in}
 into Ireland, as appears by the following Record. ^{tur. Berm.}

* Dominus Rex mandavit breve
 * suum in hæc verba. Edwardus,
 * Dei gratiâ, &c. fidelibus
 * suis, Johanni Wogan,
 * Justiciario suo Hiberniæ, &
 * Thesaurario & Baronibus suis
 * de scaccario, salutem. Man-
 * damus vobis, quod tam de
 * illo redditu Galfridi de Gene-
 * vil ad valentiam 24l. de ter-
 * mino S. Michaelis proximè
 * præterito, quem nuper ad
 * mandatum nostrum in manum
 * nostram capi fecistis apud
 * Maynoth, per Vicecomitem
 * nostrum Kildare, et tam de
 * PART II.

The King sent his writ in these
 words. Edward, by the grace
 of God, &c. to his faithful
 subjects, John Wogan, his Jus-
 tice of Ireland, and to his
 Treasurer and Barons of the
 Exchequer there, greeting. We
 command you, that you levy
 24l. as well out of that rent
 of Geoffry de Genewille to the
 value of 24l. which lately, as
 of Michaelmas term last past,
 by our command you caused to
 be seized into our hands at
 Maynoth by our Sheriff of Kil-
 dare, and also out of those
 K goods

illis bonis & catallis *Johannis*
Fitz-Thomas, ad valentiam
 12l. 13s. 4d. ut in frumento,
 avenis, hobus et affris, quæ
 similiter in manum nostram
 capi fecistis apud *Maynoth*,
 per eundem Vicomittem nos-
 trum, prout nos returnastis
 coram Thesaurario et Baroni-
 bus nostris *Angliæ* apud *Ebo-*
rum, in Crastino animarum
 proximè præterito, quam de
 aliis bonis et catallis, terris,
 redditibus, & tenementis præ-
 dicti *Galsfridi* et *Johannis*, in
 quorumcunque inanus exis-
 tant in dictâ terrâ nostrâ *Hi-*
berniæ, fieri faciatis 213l.
 quas debent *Agneti de Valen-*
tia de quodam debito qua-
 dringenta viginti et sex libra-
 rum, et quas eadem *Agnes*
 in Curia nostrâ, coram præ-
 dictis Thesaurario & Baroni-
 bus nostris *Angliæ*, per consi-
 derationem ejusdem Curie
 nostræ, recuperavit versus
 prædictum *Galsfridum*, *Johan-*
nem, & *Willielmum de Eding-*
les, & *Thomam de Samford*,
 prout nobis constat per in-
 spectionem Rotulorum ejus-
 dem scaccarii nostri, ita quod
 denarios prædictos absque di-
 latione levare & liberari facia-
 tis prædictæ *Agnetae*, aut suo
 certo Attornato in *Hiberniâ*,
 in partem solutionis debiti
 prædicti; & quid super hoc
 feceritis præfatis Thesaurario
 et Baronibus nostris *Angliæ*,
 apud

goods and chattles of *John*
Fitz-Thomas, to the value of
 12l. 13s. 4d. as in wheat, and
 oats. oxen, and plow cattle,
 which in like manner you caus-
 ed to be seized into our hands
 at *Maynoth* by our same Sheriff,
 of which you made a return to
 us before our Treasurer and
 Barons of *England* at *York* on
 the morrow of *All-Souls* last
 past, as out of other goods and
 chattles, lands, rents, and tene-
 ments of the said *Geoffry* and
John, into whose ever hands
 they are in the said land of *Ire-*
land; which said sum of 213l.
 they owe to *Agnes de Valentia*
 out of a certain debt of 426l.
 which the said *Agnes* recovered
 in our Court before our said
 Treasurer and Barons, by Judg-
 ment of the said Court, against
 the said *Geoffry* and *John*, and
William de Edingles, and *Tho-*
mas de Samford, as appears to
 us by inspection of the Rolls
 of our said Exchequer; so that
 without delay you levy and de-
 liver over the said money to
 the said *Agnes*, or to her certain
 Attorney in *Ireland*, in part
 payment of the said debt; and
 that you signify what you shall
 do hereupon to our said Trea-
 surer and Barons of *England* at
Westminster on the morrow of
 the Holy *Trinity* next, at the
 same time sending back to us
 this writ. Witness *Thomas de*
Carleton, at *York*, on the 14th
 of

' apud *Westmonasterium*, in of *November*, in the 32d year
 ' crastino *S. Trinitatis* proximè of our reign.
 ' futuro constare faciatis, re-
 ' mittentes tunc hoc breve.
 ' Teste *Willielmo de Carleton*
 ' apud *Eborum* 14^o. die *No-*
 ' *vembris*, anno Regni nostri
 ' 32^o.

By this Record it appears, that writs out of the Exchequer of *England* were not only awarded into *Ireland*, but there executed, and returns made of them into the Exchequer in *England*, as is recited in this writ.

In the Year Book of the 20th *Edw.* 3. fol. 42. it is said by *Sharde*, that in a writ of Dower a plea in bar was pleaded, and accepted, that she had received her dower of tenements taken in exchange, and yet the tenements were in *Ireland*, see 8. Affize p. 27. to that purpose. By which it appears, that an exchange of lands in *England* for lands in *Ireland* is a good exchange in law, and that a receiving of dower in *Ireland* of the lands exchanged for the lands in *England* is a bar to have dower of the lands in *England* so exchanged; which doubtless could not be, if *Ireland* had not been a part and member of *England*, but a separate kingdom, of the doings whereof the laws of *England* could not take notice, which we may also collect out of the said books.

In the 19th of *Hen.* 6. fol. 53. the case is put, that if the King by patent gives to me certain lands in *Ireland*, and another brings a *Scire facias* against me, to shew cause why my patent should not be repealed, for that the King by a prior patent had granted the same lands to him, whereupon we are at issue, that it is not the same land. This issue shall be tried in *Ireland* by proceſſe made out of the King's court, and afterwards all shall be recovered. And although in the 32d. of *Hen.* 6. fol. 25, 26. there is an opinion of *Portescue*, which seems contrary, yet it is grounded upon a double mistake, First, that *Ireland* was never ruled according to the course of the Common Law of *England*, which is a mistake; for they never had any other rule since the conquest, but according to the course of the Common Law of *England*, as appears by the old statutes before cited, and

by the foresaid Records, &c. by *Coke's Institutes*, fol. 147. The second mistake is, that in the book of the 32d of *Hen.* 6. it is said, that no proceſſe may be made, nor ever was made into *Ireland*, the contrary of which appears in many precedents formerly cited in this diſcourſe.

In the 45th of *Edw.* 3. fol. 19. a ſuperſedeas, and after a procedendo, was directed into *Ireland* in a *Quare Impedit*. And if we credit the book in the 13th of *Edw.* 2. *Fitzherbert*, title *Baſtardy*, p. 25. a Son begotten and born within eſpouſals, although the Father was in *Ireland* when he was begotten, is a Mulier and not a baſtard.

In the late caſe of the Lord *Kilmallock*, late Chief Juſtice of the Common Pleas in *Ireland*, in the Star-Chamber of *England*, notwithstanding he demurred to the juriſdiction of that Court, and though the whole matter, with which he was charged, was tranſacted in *Ireland*, yet his demurrer was over-ruled, and upon hearing he was cenſured in that Court, and writs iſſued into *Ireland* for levying the fines laid on him.

Hanm. p. 95.
97. and *Camp.*
P. 53.

In antient times the Archbiſhop of *Canterbury* had the Primacy of *Ireland*, and to him the Biſhops of *Ireland* went for conſecration, of whom the Archbiſhop of *Canterbury* took the oath of Canonical obedience.

By the Statute of 10. of *Hen.* 7. chap. 1. in *Ireland*, the Treafurer of *Ireland* is to make a declaration of his accounts before the Barons of the Exchequer there, &c. which is to be certified into the Exchequer of *England*, and there his account to be finiſhed.

By the Statute of 28. of *Hen.* 8. chap. 6. in *Ireland*, the ſubjects of *Ireland* in cauſes Eccleſiaſtical may have appeals into the Chancery in *England*.

It is alſo uſual, that recogniſances acknowledged by ſuch, who have lands in *Ireland*, in the Exchequer of *England*, are removed by Certiorari into the Chancery of *England*, and from thence by Mittimus to be ſent into *Ireland* for the ſaid lands to be thereupon extended. And writs of Error out of the King's Bench in *England* to remove judgments in the King's Bench in *Ireland*, always was, and is ſtill continually practiſed. And if all the ordinary Courts of *England* have power in *Ireland*, if in cauſes Eccleſiaſtical they have power there, if the Clergy in *Ireland* were to be obedient to the Archbiſhop of *Canterbury* in *England*, it were a hard and
ſtrange

strange thing, that the Parliament, which is the supreme Court of Justice, and which gives laws to all other Courts, should be from thence excluded. But it appears plainly by these cases, that the ordinary Courts of Justice in *England* have power in *Ireland*, and that *Ireland* is subject unto them; therefore much more hath the Parliament power over it. And that the Parliament of *England* hath power over *Ireland* to look into the state of it, and to examine and determine of the causes and matters of *Ireland*, even between party and party, besides the former reasons and arguments, appears by divers records in *Ireland*, of which we will cite a few.

‘ Dominus Rex mandavit breve
 ‘ suum, &c. in hæc verba.
 ‘ *Edwardus* &c. dilecto & fi-
 ‘ deli suo, *Johanni Wogan*,
 ‘ Justiciario suo *Hiberniæ*, vel
 ‘ ejus locum tenenti salutem.
 ‘ Transcriptum petitionis *Gal-*
 ‘ *fridi de Genevill*, coram no-
 ‘ bis et concilio nostro exhibitæ,
 ‘ super quibusdam injuriis et
 ‘ gravaminibus eidem *Galfrido*
 ‘ per dilectum & fidelem Cle-
 ‘ ricum nostrum, *Richardum*
 ‘ *de Beresford*, Thesaurarium
 ‘ *Hiberniæ*, et *Walterum Len-*
 ‘ *fant*, et socios suos, Justicia-
 ‘ rios ultimè itinerantes apud
 ‘ *Drogheda*, illatis, ut dicitur,
 ‘ vobis mittimus præsentibus
 ‘ inclusum, mandantes, quod
 ‘ inspecto tenore petitionis præ-
 ‘ dictæ, et diligenter examinatis
 ‘ super singulos articulos in
 ‘ ejusdem petitione contentos,
 ‘ in præsentia prædictorum
 ‘ Thesaurarii, Justiciariorum,
 ‘ & prædicti *Galfridi* super
 ‘ præmissis per vos præmunien-
 ‘ dis, diligenter inquiratis veri-
 ‘ tatem, & inquisitionem inde
 ‘ distinctè & aperte factam, no-
 ‘ : bis

The King sent his writ, &c. in *Trin.* 33.
 these words. *Edward*, &c. to *Edw.* 1. Rot.
 his beloved and faithful *John* 52. in tur.
Wogan, his Justice of *Ireland*, *Berming.*
 or to his Deputy, greeting. We
 send to you inclosed herein the
 transcript of a petition of *Geoffry*
de Geneville, exhibited to us
 and our Council, concerning
 certain injuries and grievances
 laid on him, as is said, by our
 beloved and faithful Clerk, *Richard de Beresford*, Treasurer of
Ireland, and *Walter L'enfant*
 and his colleagues, the last iti-
 nerant Justices at *Drogheda*,
 commanding you, that inspect-
 ing the tenor of the said Peti-
 tion, and diligently examining
 the contents thereof in the se-
 veral articles therein contained,
 in the presence of the said
 Treasurer, Justices, and the
 said *Geoffry*, to be warned by
 you upon the premisses, that
 you diligently inquire into the
 truth, and send to us under
 your Seal to our next Parlia-
 ment the inquisition taken there-
 upon distinctly and clearly, to-
 gether with this writ, that in-
 K 3 specting

'bis sub sigillo vestro ad proxi-
 ' mum Parliamentum nostrum
 ' mittatis, et hoc breve, ut in-
 ' spectâ inquisitione prædictâ
 ' ulterius fieri faciamus in præ-
 ' missis quod Justitia suadebit.
 ' Teste meipso apud *Westmo-*
 ' *nasterium* 28^o die *Martii*,
 ' anno Regni nostri 33^o. Et pe-
 ' titio inclusa continebatur in
 ' hæc verba.'

specting the said inquisition we
 may further cause to be done in
 the premisses what justice shall
 advise. Witness our self at
Westminster the 28th day of
March in the 33d year of our
 reign. And the petition was
 inclosed therein in these words.

And so the record recites the petition, in which are divers
 articles against the Treasurer for not giving him allowances,
&c. and against the Justices for infringing his franchises,
&c. To which several answers are made by them specified
 in the record, and which, as the record is, *ad instantiam*
ipsius Galfridi prædictum breve, cum prædictis articulis, et
hoc recordum mittitur Domino Regi,—at the instance of the
 said *Geoffry*, the said writ, with the said articles, and this
 record is transmitted to the King.

33. *Edw.* 1. It appears in the same year, that the King by two writs
 Rot. 53. indirected to the Justice of *Ireland* (the record is long) recites,
 tur. *Berming.* that whereas divers injuries and wrongs were done to *Agnes*
de Valentiâ by *John Fitz-Thomas* in taking away her goods,
 and disseising her of her lands, and imprisoning her Bailiff,
&c. as she suggested; for which she brought an Affize, and
 recovered them, but yet could get no satisfaction. There-
 fore the King commands the Justice, that calling the
 parties before him, and hearing their reasons, he should do
 according to law.

' Et si quid acciderit, quare
 ' idem facere non possit, tunc
 ' recordum & processum coram
 ' vobis inde habitos, et habен-
 ' dos, cum omnibus ea tangen-
 ' tibus, nobis sub Sigillo vestro
 ' mittatis, et hoc breve; ita
 ' quod ea habeantur in Parlia-
 ' mento nostro, quod infra reg-
 ' num nostrum *Angliæ* sumus
 ' proximè habituri, et partes
 ' prædictas

And if any thing should happen,
 why this could not be done,
 that then you send to us under
 your Seal the record and pro-
 cesse had, and to be had be-
 fore you, with all matters ap-
 pertaining thereto, and this
 writ; so that they should be
 ready in our Parliament, which
 we should next hold within our
 kingdom of *England*; and that
 you

‘ prædictas adjornetis, quod tunc sit ibi coram nobis et Concilio nostro, facere et recipere quæ de eodem Concilio nostro inde duximus ordinandum.’

you adjourn the said parties over, that they then appear there before us in our Council, to do and receive whatever by advice of our said Council we shall judge necessary to ordain.

The said *John Fitz-Thomas* being summoned (for the proceedings were in a kind of course at the Common Law) alledged, that he ought not to answer to the said writ; for that by the said writ it is commanded, that the Justice should do according to the law and custom of the land, and that the King hath there his Chancery, out of which did issue, and ought to issue, all original writs, by which, as well the Grandees as others of that land ought to be impleaded. And, if the Justice and Chancellor of that land will make writs of the Chancery there used, grounded upon Common Law, or upon Statutes, he shall be ready to answer before Justices thereto assigned, &c. and because nothing is contained in these writs, which is not pleadable at Common Law, he prayed judgment if he should answer *ad hæc brevia de suggestionibus*,—to these writs of suggestion,—which merely are not used in Chancery, and that to such writs none in *Ireland* were wont to answer, which did challenge them; and chiefly, because the King by that writ commanded his Justice, that hearing the reasons of his men in that land, he should do Justice, &c. and therefore prays that he may not answer to such writs not usual against the law and custom of that land.—The said *Agnes* replied, that the writ she had was sealed with the great Seal of *England*, and under the teste of the King, and the like was under the said Seal to the said *John Fitz-Thomas*, *quæ satis latebant Cancellariæ hujus terræ, et sic competentèr habere non poterat in hac terrâ breve formatum in hoc casu*,—which sufficiently were unknown to the Chancery of this land, and so a writ formed in this case could not properly be had in this land,—and that from the time of the conquest innumerable of the King’s writs were directed to the Justice of *Ireland* out of his Chancery of *England* to do justice to complainants, and that such pleas have hitherto been held in form of a commission of Oyer and Terminer. To which the said *John Fitz-Thomas* rejoined, that it was never adjudged in that

land, that any should answer to such writs of suggestion out of the Chancery of *England*, which the Defendant did challenge them to shew, and if the Court will adjudge, that he ought to answer further to that writ, he will sufficiently answer. After, day being given to hear judgment, thereupon came *Richard de Burgo*, Earl of *Ulster*, *Peter*, Son of *James de Bermingham*, *Eustace le Poer*, and others the *Grandees* of that land, for themselves and the whole commonalty, and said, that the King, at their petition, sent his writ to his Justice there, that hearing the reasons of his men of that land for their grievances done to them by his Ministers, against the liberties of their Ancestors granted to them, and the common custom used of that land upon these things, which may be determined without the King, to do speedy complement of justice, and do pray, that the said *John*, or any other of that land, be not compelled to answer the like writ, which is not usual in the Chancery, chiefly when the said *Agnes* may recover her right in that case by a writ of the Chancery of that land, *et instantè petunt, quod non procedatur in hoc placito in præjudicium eorum contra prædictas libertates et consuetudines*,—and they earnestly demand, that no proceedings should be had upon this plea to their prejudice, contrary to the said liberties and customs,—upon which a day was given over by the Justice and Council, and in the end the conclusion was thus: *Quia Justiciario et cæteris de Consilio videtur difficultatem subesse ad procedendum ad judicium in hoc casu, ipso Domino Rege inconsulto, dies datus est partibus virtute brevis prædicti de judicio suo audiendo coram Domino Rege ad proximum Parliamentum suum, quod habiturum est in Angliâ post hunc diem; et brevia cum Recordò liberantur Thomæ de Essex, servienti prædictæ Agnetis, ibi deferendum, &c.*—Because a difficulty seems to arise in the Justice, and others of the Council, how to proceed to judgment in this case, the King being not consulted, a day was given to the parties by virtue of the said writ to hear judgment before the King at his next Parliament to be after that day held in *England*, and the writs, with the Record, were delivered to *Thomas de Essex*, servant to the said *Agnes*, to be carried thither.—

By this Record it appears, that the doubt was, whether there should be had any proceedings upon that writ of suggestion, as they called it, and which the Nobles and others opposed;

opposed ; but none of them excepted against the sending to the Parliament in *England* to have their doubt resolved, which undoubtedly they would have done, if they had conceived, that the Parliament there had had no power over them. And, therefore it was resolved by the Justice and Council, that it should be sent thither, where they were to expect judgment, and so by the Record it appears that thither it was sent.

Rot. pat. Anno 14 Edw. 3. in the Exchequer, we find this Record.

Pat. 14. Ed.
3. in officio
Remom.

' Rex Thesaurario & Camera-
' riis suis de Scaccario *Dublin*,
' salutem. Cum nos per breve
' nostrum de privato Sigillo
' mandaverimus Venerabili Pa-
' tri *Thomæ, Episcopo Hereford*,
' Custodi terræ nostræ *Hiber-*
' *niæ*, quod ipse ad nos in *An-*
' *gliam* ad instans Parliamentum
' apud *Westmonasterium*, jam
' convocatum, personaliter ac-
' cedat, ad informandum nos
' et Concilium nostrum in dicto
' Parlamento nostro de statu
' dictæ terræ nostræ, et dedimus
' eidem Episcopo 40l. pro pas-
' saggio suo versus dictas partes
' *Angliæ*, vobis mandamus,
' quod eidem Episcopo dictas
' 40l. de Thesauro nostro libe-
' retis, habendas ex causâ su-
' pradictâ. Teste *Thoma* Epif-
' copo *Hereford*, Custode terræ
' nostræ *Hiberniæ*, apud *Dublin*
' 27^o. Martii, Anno Regni nos-
' tri 14^o.

The King to his Treasurer and Chamberlains of the Exchequer at *Dublin*, greeting. Whereas we by writ of Privy Seal have commanded the Venerable Father, *Thomas*, Bishop of *Hereford*, Custos of our land of *Ireland*, that he personally come to us in *England*, to our present Parliament convened at *Westminster*, to inform us and our Council in the said parliament of the state of our said Land ; and we have granted to the said Bishop 40l. for his passage towards the said parts of *England*, we command you, that you deliver to the said Bishop the said 40l. out of our treasure, for the cause aforesaid. Witness *Thomas* Bishop of *Hereford*, Custos of our Land of *Ireland*, at *Dublin*, the 27th day of *March* in the 14th year of our Reign.

I will end this particular (because I am unwilling to clog this answer with too many Records) with a passage in a speech made by Sir *Maurice Eustace*, Speaker of the Commons of *Ireland*, delivered at the Bar of the Lords upon the return of the late Earl of *Strafford* out of *England*, entered in the Journals of that house.

“ The

“ The time was, when we were forced to attend the
 “ Parliament of *England*, which no doubt was a mighty and
 “ heavy charge to this Kingdom, and yet thus it was; for
 “ so you have it in the Parliament Rolls in the Tower of
 “ *London* (viz.) 8th *Edw.* 2. Dorso Clauso mem. 31 Rex
 “ mandavit *Richardo de Burgo*, Comiti *Ultoniæ*, et aliis
 “ Nobilibus *Hiberniæ*, quod sint apud *Westmonasterium* in
 “ Octabis *Hilarii* proximè ad tractandum cum Proceribus
 “ hujus Regni de statu *Hiberniæ*”——“ The King com-
 “ manded *Richard de Burgo*, Earl of *Ulster*, and other No-
 “ bles of *Ireland*, that they appear at *Westminster* on the
 “ Octaves of *Hillary* next, to treat with the Peers of this
 “ Kingdom of the state of *Ireland*.”

And that the Parliament of *England* had power over *Ireland*, besides what hath been already said, appears yet further by the acknowledgment and practice of the People of *Ireland*, who usually in grants made to them by the Kings of *England* of lands, rents, offices, and honours, procured them to be confirmed by the Parliament of *England*; which if they had not thought necessary, they would no more have done, or had it been to any more purpose than if they had them confirmed by the Parliament of *Scotland*. Many Records of such confirmations are yet extant; as in 12 *Edw.* 2. in the Roll intituled, *Antiquissimæ literæ patentes & Commissiones* in the Rolls-Office.

* Rex, &c. Sciatis, quod in
 * pleno Parlamento apud Ebo-
 * rum convocato de assensu Præ-
 * latorum, Comitum & Baro-
 * num Regni nostri ibidem exis-
 * tentium pro bono et laudabili
 * servitio, quod dilectus nobis
 * *Nicholaus de Verdon* nobis im-
 * pendit, et impendet in futuro,
 * dedimus & concessimus pro
 * nobis & hæredibus nostris ei-
 * dem *Nicholao* Manerium nos-
 * trum de *Mandevillestown*,
 * cum pertinentiis, in Comitatu
 * *Louth*, in *Hiberniâ*, quod ad
 * manum Domini *Edwardi*,

Quondam

The King, &c. Know ye,
 that at a full Parliament assem-
 bled at *York*, by assent of the
 Prelates, Earls, and Barons of
 our Kingdom there being, we
 have, for the good and lauda-
 ble service, which our beloved
Nicholas Verdon has done to us,
 and shall do for the time to
 come, given and granted, for us
 and our heirs, to the said *Ni-
 cholas* our Manor of *Mandeville-
 lestown*, with the appurtenances
 in the County of *Louth*, in *Ire-
 land*, which came to the hands
 of *Edward*, our Father, late

King

quondam Regis *Angliæ*, Patris nostri, ex dono & concessione *Radulphi Pipard* devenit. Habendum & tenendum, &c. per servitia, quæ de eo manerio debebantur, antequam illud manerium ad manus dicti Patris nostri devenit. Teste meipso apud Eborum 18^o. die *Novembris*, Anno Regni nostri 12^o.—Per ipsum Regem & Concilium.

King of *England*, by the grant and concession of *Ralph Pipard*. To have and to hold, &c. by the services which were due out of the said Manor, before the said Manor came to the hands of our said Father. Witness myself at *York*, on the 18th day of *November*, in the 12th year of our reign.—By the King and Council.

In 2d *Hen. 6.* in the account of *Jenico Dartas* for the Manor of *Eskar, Castle-Lyons*, &c. he prays an allowance of 100l. rent out of the said lands granted to him for life by the Patent of *Henry 5th.*—Quas quidem literas patentes (as he pleads) Dominus Rex nunc 30. die *Februarii*, Anno Regni sui 1^{mo}. inter diversa alia in iisdem contenta, de advisamento magni Concilii *Angliæ*, approbavit, ratificavit, & confirmavit, prout in literis & confirmatione prædictis plenius continetur,—which said Letters Patent the King that now is, on the 3d of *February*, in the first year of his reign, among divers other things contained therein, approved, ratified, and confirmed, by advice of the great Council of *England*, as in the said letters and confirmations more fully appears.—Which Letters Patent are enrolled (as he pleads) in the Records of *Easter Term*, 1^{mo}. of that King. Whereupon (as the Record is)—Visis præmissis per Barones hujus Scaccarii concordatum & consideratum est, quod prædictus *Jenico* allocationem habeat in compoto suo de prædictis 100l. —The Premisses being inspected, it is agreed and adjudged by the Barons of this Exchequer, that the said *Jenico* have an allowance for the said 100l. in his account.—The like is to be seen in other accounts.

2 *Hen. 6.* Rot. 61. in offic. Rem. in Scaccario.

2 *Hen. 6.* Rot. 62, 63, 64. in the Account of the Mayor and Bailiffs of *Dublin*.

In 34 *Hen. 8.* Rot. 31. in the chief Remembrancer's Office in the Exchequer, there is an Inrollment of a Grant made to *Edmond Sexton* for life of the fee farm rent of the City of *Limerick*, at the end of which are these words.—Per billam ipsius Domini Regis, et manu suâ propriâ signatam, immediatè Cancellario suo Regni *Hiberniæ* directam, auctoritate Parliamenti.—By bill of the King, signed by his

his hand, and immediately directed to the Chancellor of Ireland, by authority of Parliament.

34. Hen. 8.
rot. 12. in
Offic. Rem.

Anno 34 Hen. 8. the Grant of the office of Master of the Rolls in Ireland to Sir Thomas Cusack is enrolled at large, wherein is a *Non Obstante* in these words.

‘ Non obstante quodam statu, actu, et Ordinatione, in quodam Parlamento tento apud Droghedab in Hiberniâ die lunæ proximè post festum St. *Andræ* Apostoli, Anno Regni præcharissimi Patris nostri Hen. septimi, nuper Regis Angliæ, Decimo, coram Edwardo Poynings milite, Deputato ipsius Domini Regis, Patris nostri, Regni sui Hiberniæ, edito in hæc verba, (viz.) quod deinceps nullæ Personæ, qui habebunt Administrationem Justitiæ in dicto Regno suo Hiberniæ (viz.) Cancellarius, Thesaurarius, Justiciarius de Banco Regis, et de Comuni Banco, Capitalis et secundarius Barones de Scaccario ibidem, clericus sive Magister Rotulorum, ac omnes officarii computabiles, habeant de cætero aliquam Auctoritatem in talibus Officiis suis per literas patentes Domini Regis, nisi solummodo ad placitum et voluntatem Domini Regis. Et quod si aliqua concessio facta, vel imposterum fienda, alicujus, vel aliquorum officiorum prædictorum alicui Personæ, et in contrarium præmissorum, sic facta, quod illa concessio adjudicetur vacua, et nullius vigoris in lege.’

Notwithstanding a certain statute, Act, and Ordinance, made in a Parliament held at Droghedab in Ireland, on the Monday next after the feast of St. *Andrew* the Apostle, in the 10th year of the reign of our dearest Father, *Henry* 7th, late King of England, before Sir *Edward Poynings*, Deputy of the said King our Father of his Kingdom of Ireland, in these words (viz.) that from this time forward, no manner of person or persons, that shall have ministration of Justice in the said Kingdom of Ireland, that is to say the Chancellor, the Treasurer, the Judge of the King's Bench and Common-Pleas, the chief and secondary Baron of the Exchequer, the Clerk or Master of the Rolls, and all manner of Officers Accomptants, shall have for the time to come no authority by Patent in such Offices, but only at the King's will and pleasure ; and if any grant be made, or hereafter shall be made of any of the said Offices, to any person contrary to the Premisses, that the same shall be adjudged void, and of no effect in law.’

Ac

At the end of the Inrollment of which Patent are these words.—Per billam ipsius Domini Regis ab *Angliâ* missam, et manu suâ propriâ signatam, et Cancellario suo *Hiberniæ* immediatè directam, de datâ prædictâ, auctoritate Parliamenti.—By Bill of the King sent from *England*, and signed with his own hand, and immediately directed to his Chancellor of *Ireland*, of the said date, by authority of Parliament.

By this Record we may gather, that they of *Ireland* in those times did conceive, that by the statute 10 *Hen. 7.* in *Ireland*, grants of those Offices therein named, with a *non obstante* for life, would not be sufficient in law, and therefore they had recourse into *England* to have such Offices granted for life, contrary to the statute of *Ireland* made by authority of the Parliament there, which would controul that Act made in *Ireland*, as having power and authority over it. And this it seems was common in those times. For in the same year, a grant of the Office of Comptroller of the Customs in *Dublin, Drogheda, &c.* was made to Robert Lower and Laurence Hamond for life, with the like *non obstante* as in Sir Thomas Cusack's Grant, and with the like direction to the Chancellor—*Authoritate Parliamenti*—by Authority of Parliament.

Anno 33 *Hen. 8.* the King created Thomas Butler, Baron of *Caber*, and in the end of the Grant in the Bill signed with the King's own hand, and sent into *Ireland*, are these words.—Per billam ipsius Domini Regis ab *Angliâ* missam et manu suâ propriâ signatam, Cancellario, five Custodi Magni sigilli sui *Hiberniæ*, immediate directam, auctoritate Parliamenti.—By Bill of the King sent from *England*, and signed with his own hand, directed to the Chancellor, or Keeper of his Great Seal of *Ireland* immediately, by authority of Parliament.

Many such Records are among the Rolls of *Ireland*, where their Grants are from the King, and were — *Authoritate Parliamenti*;—by Authority of Parliament;—from whence we may judge, that they of *Ireland* took the law to be, that the authority of the Parliament of *England* did strengthen their Grants and Estates against any defects, that might be found in them by the laws of *Ireland*; and therefore we may truly conclude, that since the chief Governors of *Ireland* have been sent for to the Parliament of *England*,

to inform the King and his Parliament there of the state of *Ireland*; since the Nobles of *Ireland* were to attend the Parliament there, to treat of the state of that Country, since the King by his Writs did remove Causes between party and party out of *Ireland*, into the Parliament of *England*, to be determined there, since they of *Ireland* did usually from time to time procure their Grants made by the Kings of *England* to be confirmed by the Parliaments there; therefore, that Parliament has power over *Ireland*, and may, as they please, consider, resolve, and cause to be executed, what they think is fittest for them, and give judgment in their causes of controversy between party and party, and then *Ireland* cannot possibly be a Kingdom absolute in itself, and divided absolutely in matter of Government from the power of the Parliament of *England*.

The second Case which the Author cites, is the book of 2d *Rich.* 3. Fol. 11. where it is said, "that the land of *Ireland* in itself hath a Parliament; and all other Courts "as in *England*, and by the same Parliament do make "Laws and change Laws, and are not bound by the statutes "of *England*, because they have not Knights of Parliament "there. But this (saith the book) is understood of lands "and things in that land only to be affected; but the Persons are the King's Subjects, and as Subjects are bound "to any thing to be done out of *Ireland*, against the statutes, " &c." This being all that is said in that case to the purpose in hand, let it be observed, that it was only a *fait dictum*, It was said, that *Ireland* had a Parliament of itself, &c. and is not bound by the statutes of *England*, &c. But there was no resolution or judgment in that case, nor as much as the opinion of any one Judge in particular there cited. But in 1 *Hen.* 7. Fol. 2. the same case being again moved before all the Justices, *Hussey*, Chief Justice, said, that the statutes made in *England* do bind them in *Ireland*, and it was not much denied, saith the book, by the other Justices, though they were of a contrary opinion the last term in his absence. So that it appears, that when the Judges had well considered the case, they changed their opinions, and upon serious consideration thought, that the statutes of *England* did bind them of *Ireland*; and therefore, whereas the Author saith upon the case of the 20 *Hen.* 6. by him cited, that *Portington* saith, that if a tenth be granted in the Parliament of *England*, that shall not bind *Ireland*, because they

they have no command with us by writ to come to our Parliament, which was not denied by *Markham*, *Yelverton*, nor *Ashcough*. It may be as well said, that *Hussey*, Chief Justice, said in the 1 *Hen. 7.* after the cause had been long considered by all the Judges, that the statutes of *England* do bind *Ireland*, which was not much denied by the other Justices. And whereas the Author in another part of his discourse saith, that this opinion of *Hussey* cannot be Law; for that *Brooke*, in abridging that case, (i) saith, that that opinion was denied to be law the last term before, and addeth further,—*tamen Nota*, yet observe,—that *Ireland* is a Realm of itself, and hath a Parliament of itself, implying thereby (saith he) that *Ireland* cannot be bound but by the Parliament in *Ireland*: let us hear what *Brooke* in that place saith; his words are these, “By the opinion of the Chief Justice, the statutes of *England* bind those of *Ireland*, which was in a manner agreed by the other Justices, and yet it was denied the last day before; *tamen nota*—yet observe,—that *Ireland* is a Realm of itself, and hath a Parliament in itself,” but of which words it may be more naturally and congruously implied, than the inference which the Author makes, that though *Ireland* be a Realm of itself, and hath a Parliament in itself, and though it had been denied before, yet the opinion of the Chief Justice, and the other Judges, when they had more seriously studied, and conferred on that case, was, in a manner, that *Ireland* was bound by the statutes of *England*. And whereas the Author saith, that he conceives *Hussey*’s meaning was not, that the statutes of *England* generally bind *Ireland*, but only such statutes, as concern the matter in question, which were the matters concerning the Staple, in which *Ireland* is particularly named: I answer, that if the Parliament in *England* can bind *Ireland* in matters concerning the Staple, it may do it in any other matter, wherein they please to have *Ireland* bound; for there can be no difference: and for *Hussey*’s meaning, we cannot conceive of it what it was but by his words, or by his explanation of them; and therefore we must needs understand them generally of all statutes, which are not for particular places, but may be applied to *Ireland*. And if he will grant, that *Ireland* may be bound by a statute in *England*, where *Ireland* is named, we will ask no more of him for this time; but that he utterly denies, and therefore his conceit of *Hussey*’s meaning must needs be contrary

(i) Tit. Parliament.
P. 19.

contrary to *Hussey's* sense, which he expresses to be generally of statutes in *England*, that they bind *Ireland*. And as to that saying of the book of the 2 *Rich* 3. cited by the Author (*viz.*) that the statutes of *England* bind not them of *Ireland*, because they have not Knights of Parliament there, that is no good argument, or reason; for the statutes of *England* do bind many places, from whence there are no Knights or Burgeses; as the County Palatine of *Chester* was always bound by the acts of Parliament of *England*, and yet had no Knights or Burgeses in Parliament till 34 *Hen.* 8. as appears by the express words of a statute of that year, *Chap.* 13. The like we shall find touching *Wales*, as we shall see more at large hereafter. *Calais* was never annexed to *England*, but was part of the Kingdom of *France*, nor ever sent Burgeses to the Parliament of *England*. Yet being under the power of that Parliament, they made Laws for them, even for the forfeiture of their houses in *Calais* for want of watch. See statute 11. *Hen.* 7. *Chap.* 16. and statute 2 *Edw.* 6. *Chap.* 38. concerning the paving of their streets, &c. under a penalty.

It is likewise said in the said book of the 2 *Rich.* 3. that *Ireland* is not bound by the statutes of *England*, because they have no Knights of the Parliament there. But saith the book, this is understood of lands and things only in that land to be affected. But the Persons are the King's subjects, and as subjects are bound to any thing to be done out of *Ireland* against the statutes, &c. So that by the saying of that book, their Persons are subject to the Laws of *England* out of *Ireland*; and by the case cited before of the 20. *Hen.* 6. it cannot be denied, but things to be affected in *Ireland* are bound by the Judgments of the Courts of Justice in *England*, contrary to the opinion of 2. *Rich.* 3. For to have an office in *Ireland* is a thing there to be affected. So that by these two books the Author will gain nothing to his cause, but rather lose much by them; and the former records and year books do sufficiently demonstrate, that *Ireland* is a part and member of *England*, hath been governed by the Laws thereof, and subject to the Laws made by the Parliament there, and not that *England* served only as a Model for the Government of *Ireland*, as the Author would have it.

Now

Now let us consider a little the statutes cited by the Author in maintenance of his position. He saith, that contrary to the opinion of *Hussey* (which is, that the statutes of *England* do bind *Ireland*) are the Judgments of 8 several Parliaments in *Ireland* before the statute of 10. *Hen.* 7 ; but he names only 7, and yet he names no particular act in some of them to prove his assertion ; but we may easily guess at them, there being no act in these several Parliaments, which tends this way, but those which I will now cite.

The Parliaments which he cites are 13. *Edw.* 2. 19. *Edw.* 2. 18. *Hen.* 6. 29. *Hen.* 6. 32. *Hen.* 6. 39. *Hen.* 6. and 8. *Edw.* 4 ; and since the statute of 10. *Hen.* 7. (as he saith) of five Parliaments (*viz.*) 28. *Hen.* 8. 33. *Hen.* 8. 28. *Eliz.* 11. *Jac.* and 10. *Car.* besides the statute of 10. *Hen.* 7. itself. For three of these statutes (*viz.*) 13. *Edw.* 2. 19. *Edw.* 2. and 29. *Hen.* 6. we must again take the Author's bare word ; for he cites no record, nor any other thing that we may find to prove that there are such statutes ; but he saith, that they are exemplified under the great seal, and the exemplifications were remaining in the treasury of the City of *Waterford*. I believe there was some such exemplification ; because Sir *Richard Bolton*, in his edition of the statutes of *Ireland*, in a marginal note upon the statute of 10. *Hen.* 7. *Chap.* 22. saith, that the said exemplification is there, tho' now it is said no such can be found ; and if it were for the Author's purpose, I wonder it should be now concealed, and not set down by him *verbatim*, as he does other Statutes, which are not much to the purpose. For the best learned men can hardly judge rightly of a statute without perusing the very words, and considering the scope and intention of it : and therefore, if there were such statutes, whether they did only aim at that which he alledgeth we know not, or whether some other thing were contained in them, which might make against his opinion, we cannot tell. But admit there were such statutes so exemplified, as he saith, yet they cannot be legally taken notice of or pleaded in any Court, unless we had some records of them, or that they had been at least formerly in print, and allowed, and taken for statutes, or were exemplified under the seals of the four Courts, as appears by the statute 12. *Eliz.* *Chap.* 2. in *Ireland*. So that for these three alledged statutes, they not appearing, we may say they are not in

PART II.

L

being ;

being; for——— *de non apparentibus, & non existentibus eadem est ratio*———The same reason extends to things that do not appear, and things that do not exist.——though for them, and all the rest, we shall give another answer hereafter. And yet by the way, it may be observed, whereas the Author saith, that by the statutes of 19. *Edw. 2.* and 29. *Hen. 6.* it was enacted, that the statutes made in *England* should not be of force in *Ireland*, unless they were allowed and published in that Kingdom by Parliament; that from hence a strong argument may be drawn, that before these alledged statutes, the statutes in *England* did bind in *Ireland*. For if a statute should be made, that men that are seized of lands in fee discendible by course of Common Law to their heirs, if they made no conveyance or devise of them, but should so die seized thereof in fee, that these lands should descend to their heirs; would not every man say, that such a statute were ridiculous and nugatory; for the law is so, and always hath been so used? So in this case, if the law were, that the statutes of *England* never bound in *Ireland* before they were confirmed there by Parliament, nor ever any act made in *England* executed there before it were confirmed there, what an idle thing had it been to make a Law for that, which was, and always had been the Law before and ever so taken? Therefore, we must conclude, that if there were any such statutes made, the Parliament there conceived the Law to be, that *Ireland* was bound by the statutes of *England*, which they endeavoured to exempt themselves from, if it had been in their power.

The first of the statutes alledged by the Author, which is agreed to be a statute, is that of the 18. *Hen. 6. Chap. 1.* in *Ireland* concerning Purveyors, against whose extortions divers statutes were made in *England*, and by him cited, which were never received, nor put in execution in *Ireland*, as he saith, till 18. *Hen. 6. Chap. 1.* it was enacted by the Parliament of *Ireland*, that all statutes made against Purveyors within the Realm of *England* should be holden and kept in all points, and put in execution in *Ireland*.

That none of the statutes made in *England* against Purveyors were received, or put in execution in *Ireland* before this statute of 18. *Hen. 6.* would be difficult for the Author to prove; and if there were no proofs that they were in force before that statute, yet it may be well inferred that
they

they were. Because we find, that other statutes made in *England* only were there executed, as by the former Records appears. But from thence to conclude, that statutes made in *England* do not, nor cannot, bind in *Ireland*, till they be there confirmed by Parliament, is a consequence which is still denied, and cannot be proved. But to shew his mistaking in this, as in the rest, it is to be remembered, that formerly in this discourse it is plainly proved, that after acts made in *England* were transmitted into *Ireland* under the great seal, and there published, though *Ireland* were not named in them, yet they were of force there and executed: And that some of the chief of their acts against Purveyors made in *England* long before this act of 18. *Hen. 6.* were sent into *Ireland*, and commanded there to be published and executed, is most certain; for so were the acts made in the 36. *Edw. 3.* against Purveyors, as may be seen by the original record of their transmission under the great seal of *England*, now remaining in the treasury of the City of *Dublin*, in these words.

‘ *Edwardus*, &c. dilectis &
 ‘ fidelibus suis, Locum nostrum
 ‘ tenenti in *Hiberniâ*, ac Can-
 ‘ cellario et Thesaurario nostris
 ‘ ibidem, et eorum cuilibet, fa-
 ‘ lutem. Mandamus vobis fir-
 ‘ mitè injungentes, quod statu-
 ‘ ta tam de emptoribus & pro-
 ‘ visoribus victualium, quam de
 ‘ omnibus aliis in iisdem statutis
 ‘ contentis, in Parlamento nos-
 ‘ tro apud *Westmonasterium* ad
 ‘ quindenam *Sti. Michaelis*, an-
 ‘ no regni nostri 36. edita, & ad
 ‘ dictam terram ex parte nostrâ
 ‘ missa, proclamanda et tenenda
 ‘ in omnibus suis articulis in
 ‘ terrâ prædictâ firmitè teneri
 ‘ & observari, et contra eadem
 ‘ delinquentes, juxta tenorem
 ‘ eorundem statutorum, omni
 ‘ favore posthabito, puniri fa-
 ‘ ciatis; et hoc nullatenus o-
 ‘ mittatis.

Edward, &c. to our beloved
 and faithful, our Lord Lieu-
 tenant of *Ireland*, and to our
 Chancellor and Treasurer there,
 greeting. We command and
 firmly injoin you, that you strict-
 ly cause the statutes as well
 concerning Buyers or Purveyors
 of victuals, as of all other things
 in the said statutes contained,
 made in our Parliament at *West-*
minster on the Quindene of *St.*
Michael, in the 36th year of
 our reign, and sent by us into
 the said land, to be proclaimed
 and observed, to be firmly kept
 and observed in the said land in
 all the articles thereof, and that
 without favour or affection you
 cause all delinquents against the
 same to be punished according
 to the tenor thereof, and that
 by no means you omit to do so.

L 2

Witness

‘ mittatis. Teste meipso apud Westmonasterium, 26o. die Novembris, anno regni nostri 37o. Per ipsum Regem & Concilium.’

Witness myself at *Westminster*, the 26th of *November* in the 37th year of our Reign.—By the King and Council.

By this writ it is evident, that some of the statutes made in *England* against Purveyors were of force in *Ireland* long before the said statute of 18. *Hen* 6. and therefore it is probable, that the rest were so, which will more clearly appear by the next statute of 32. *Hen* 6. Chap. 1. which must needs be one of his eight judgments in Parliament, which he contends for, there being no other that Parliament made, which can have any colour for this his purpose.

The said statute of 32. *Hen* 6. Chap. 1. saith, “ that whereas divers ordinances, as well in *England* as in *Ireland*, have been made against them that sue Provisions to the Court of *Rome*; as by the statutes and ordinances made as well in *England* as in *Ireland* more plainly appears. This notwithstanding, Provisions are sued from day to other, more now, than before this time. Wherefore it is ordained by authority of the said Parliament, that from henceforward, all the acts, ordinances, and statutes, made against Provisors, as well in *England* as *Ireland*, be had and kept in force (almost the words of the statute of 18. *Hen* 6.) within this land of *Ireland*.” By this act it appears, that divers statutes have been made formerly in *Ireland* against Provisors, and this act ordains, that these statutes shall be in force. But will any man from hence argue, that these acts made in *Ireland* against Provisors were not in force before, because they were confirmed by this Parliament? I think none will; for it is usual in Parliaments, especially in *Ireland*, when they recite acts formerly made, which they would have known, and taken special notice of to continue, and be of force, to confirm them by a later act. But it may as well, and by the same reason, be said, that the former acts made against Provisors in *Ireland* were not of force before this statute; because this act saith, that they should be had and kept in force, as to say that, which the Author doth upon the statute of 18. *Hen* 6. which saith, that all statutes made in *England* against Purveyours shall be holden and kept in force; therefore they were not

in force before: For it is the same kind of argument, and a difference cannot be made betwixt them.

But it may be strongly inferred from this act of 32. *Hen. 6.* that this Parliament conceived, that the statutes of *England* against Provisors were in force there before this act; because it saith, notwithstanding those statutes of *England* and *Ireland* Provisions are sued more than before; which had been no breach of the statutes made in *England* against Provisors, if they had not been of force there in *Ireland*, nor had the Parliament there any cause to complain of the breach of them; and therefore this act declares, that all statutes both of *England* and *Ireland* (for they are both joined together, as being of like authority there before) should be had and kept in force. So likewise in the statute of 18. *Hen. 6.* all that is said concerning the statutes of *England* against Purveyors is, that all the statutes in that behalf made in *England* be holden and kept in all points, and put in execution in this land; but not a word that they were not of force before, or that they could not before bind *Ireland*, but rather, as this statute of 32. *Hen. 6.* would have all the Laws in *England* and *Ireland*, against Provisors put in execution, so would that statute have them executed against Purveyors, conceiving them to have been of force, and only declaring the same so to be by this act, that they might be the better taken notice of, and the more carefully executed.

And that the statutes of *England* concerning Provisors were of force and executed in *Ireland* many years before this statute of 32. *Hen. 6.* which confirmed them, is apparent by many commissions granted in *Ireland* for the execution of them here.

A°. 4. *Hen. 4.* We find this commission. — ‘ Rex dilectis sibi *Mattheo Fitz-Henry*, et *Jobanni Chever*, salutem. Sciatis, quod cum in Parlamento Domini *Richardi*, nuper Regis Angliæ 2d. post conquestum, anno regni sui 13. apud *Westmonasterium* teneto, ordinatum & stabilitum fuisset, quod si aliquis deferat seu mittat infra Regnum Angliæ,

The King to his beloved *Mattheo Fitz Henry*, and *John Chever*, greeting. Know ye, that whereas in a Parliament of *Richard*, late King of *England*, the second of that name after the conquest, in the 13th year of his reign, held at *Westminster*, it was ordained and established, that if any person should bring in or send into the Kingdom of *England*, or elsewhere within

4. *Hen. 4.*
rot. pat. in
dorso in tur.
Berm.

' gliz, vel potestatem nostram,
 ' aliquas summonitiones, sen-
 ' tentias, seu excommunicati-
 ' ones, contra aliquam Perso-
 ' nam, cujuscunque status seu
 ' conditionis fuerit, occasione
 ' Executionis, statuti de Provi-
 ' soribus, anno Regni Domini
 ' *Edwardi*, nuper Regis Angliæ,
 ' avi nostri, 250. editi, arreste-
 ' tur, capiatur, et Prisonæ nos-
 ' træ committatur, et forisfaci-
 ' et omnes terras et tenementa,
 ' bona et Catalla, et etiam pœ-
 ' nam vitæ & membrorum in-
 ' currat. Et si aliquis Prælatus
 ' faciat executionem hujusmodi
 ' sententiarum, summonitionum,
 ' et excommunicationum, tem-
 ' poralia sua capiantur, et re-
 ' maneant in manibus nostris
 ' quoutque debita correctio in-
 ' dé fiat. Et si aliqua Persona
 ' de minori statu quam Præla-
 ' tus, cujuscunque status seu
 ' conditionis fuerit, faciet hu-
 ' jusmodi executionis, arreste-
 ' tur, Capiatur, et Prisonæ nos-
 ' træ committetur, et finem &
 ' redemptionem faciet secun-
 ' dum discretionem Concilii nos-
 ' tri, prout in statuto indè edito
 ' plenius continetur. Nos sta-
 ' tutum illud inviolabiliter ob-
 ' servari, et impugnatores Juri-
 ' um Coronæ nostræ, et violato-
 ' res dictorum statutorum, juxta
 ' eorum demerita, punire et cas-
 ' tigare volentes, ut tenemur,
 ' de vestrâ fidelitate, circum-
 ' spectione, & industriâ plenius
 ' confidentes, assignavimus vos
 ' conjunctim & divisim ad in-
 ' quirendum per sacramentum
 ' proborum & legalium homi-
 ' num

our power, any Citations, Sen-
 tences, or Excommunications,
 against any person, of what state
 or condition soever he be, upon
 occasion of the execution of the
 statute of Provisors made in the
 25th year of our Grandfather,
Edward the 3d, King of *Eng-
 land*, he shall be arrested, tak-
 en, and committed to our pri-
 son, and shall forfeit all his lands
 and tenements, good and chat-
 tles, and shall suffer the penalty
 of life and member. And if
 any Prelate make execution of
 such Sentences, Citations, and
 excommunications, his Tempo-
 ralities shall be seized, and re-
 main in our hands, until due sa-
 tisfaction be made for the same.
 And if any person of lesser de-
 gree than a Prelate of what
 condition or state soever he be,
 shall make such executions, he
 shall be arrested, taken, and
 committed to our prison, and
 shall make fine and ransom ac-
 cording to the discretion of our
 Council, as is more fully con-
 tained in the said statute. We
 being willing, that the said sta-
 tute should be inviolably ob-
 served, and that the Impugners
 of the rights of the Crown, and
 the violators of the said statutes
 should be punished and correc-
 ted, according to their demerits,
 as we are bound to do, placing
 a sure confidence in your Fide-
 lity, circumspection, and indus-
 try, have appointed you jointly
 and severally our Commissioners
 to enquire by the Oaths of good
 and lawtul men of the County
 of *Wexford*, as well within li-
 berties

num Comitatus *Wexford*, tam
 infra libertates quam extra,
 per quos rei veritas melius sciri
 poterit, de universis & singulis
 motoribus et executoribus hu-
 jusmodi Summonitionum, sen-
 tentiarum, et excommunica-
 tionum tam de minori statu,
 quam si Prælati existunt, ubi-
 cunque eos infra comitatum
 prædictum, tam infra liberta-
 tes quam extra, fore, seu in-
 veniri contingent, et illos, qui
 coram vobis, seu alteri ves-
 trum, *inveniri contingent*, una
 cum bullis, instrumentis, pro-
 cessibus, inhibitionibus, citati-
 onibus, appellationibus, seu
 notationibus in hac parte se-
 cum inventis, seu impofterum
 inveniendis, arrestandi & ca-
 piendi, et prisonæ nostræ man-
 cipandi, ac ipsos, statim cum
 capti fuerint, coram Locum
 nostrum tenente, & Concilio
 nostro in terrâ nostrâ *Hiber-
 niæ*, una cum hujusmodi præ-
 judicialibus, salvo & securé
 venire faciendi, et ad respon-
 dendum circa præmissa, et ad
 faciendum ulterius et recipi-
 endum quod prædictus noster
 Locum tenens, & Concilium
 nostrum prædictum de iis tunc
 contingent ordinare; et ad in-
 quisitiones inde distincte et
 aperte captas nobis in Concel-
 laria nostrâ *Hiberniæ*, sub si-
 gillis vestris, seu sigillo alteri-
 us vestrum, et sigillis eorum
 per quos factæ fuerunt, una
 cum toto facto vestro in hac
 parte, de tempore in tempus
 mittendi. Et ideo vobis, et
 alteri vestrum, mandamus fir-
 mitér injungentes, quod circa
 præmissa

berties as without, by whom
 the truth may be best discover-
 ed, of all and singular the movers
 and executors of such Citations,
 sentences, and excommunicati-
 ons, as well of those of lesser
 degree, as of Bishops, where-
 ever they shall happen to be
 found within the said County,
 as well within as without liber-
 ties, and to arrest and take such,
 who shall happen to be found
 by you, or either of you, toge-
 ther with their bulls, instru-
 ments, processes, inhibitions, ci-
 tations, appeals, or summons's,
 found, or which hereafter shall
 be found about them, and to
 arrest, and take, and confine
 them in prison, and as soon as
 they are taken, to conduct them
 safely and securely before our
 Lieutenant and Council in our
 land of *Ireland*, together with
 such prejudicial things, and to
 be responsible for the premisses;
 and further to do and receive
 whatever our said Lieutenant
 and Council shall order or direct
 concerning them, and to return
 the inquisitions taken upon such
 occasions distinctly and plainly
 into our Chancery of *Ireland*,
 under your seals, or the seal of
 either of you, and the seals of
 those before whom such inquisi-
 tions shall be made, together
 with what you shall from time
 to time do herein. And there-
 fore we strictly enjoin you, and
 each of you, that you diligent-
 ly employ yourselves about the
 premisses, and execute the same
 in form aforesaid. We also
 give unto the Seneschal of the
 liberties of *Wexford*, and to our

' præmissa diligenter intendatis,
 ' et ea faciatis et exequamini
 ' in formâ prædictâ. Damus
 ' autem Seneschallo Libertatis
 ' *Wexford*, ac Vicecomiti nos-
 ' tro dicti Comitatus, ac uni-
 ' versis aliis & singulis Officia-
 ' riis, Ministris, & fidelibus li-
 ' geis nostris ibidem, tam infra
 ' libertates quam extra, tenore
 ' præsentium, specialitèr in man-
 ' datis, quod vobis, et alteri
 ' vestrum, executionem præ-
 ' missorum intendentibus, sint
 ' consulentes, respondentes, &
 ' auxiliantes, & quod ad certos
 ' dies et loca, quos eis, seu eo-
 ' rum alicui, scire faciatis, ve-
 ' nire faciant coram vobis, seu
 ' alteri vestrum, tot et tales
 ' probos & legales homines de
 ' Ballivis suis, per quos rei ve-
 ' ritas in præmissis melius sciri
 ' poterit, et inquiri, &c. In
 ' Cujus, &c. Teste præfato
 ' Locum tenente apud *Dublin*,
 ' 30o. Februarii.'

Sheriff of the said County, and
 to all other our Officers, Minis-
 ters, and faithful liege subjects
 there, as well within liberties
 as without, by the tenor of
 these presents, especially in
 command, that to you, and each
 of you, employing yourselves a-
 bout the execution of the pre-
 misses, they be aiding, assisting,
 and advising, and that at cer-
 tain days and places, which to
 them, or any of them, you shall
 make it known, they cause to
 appear before you, or either of
 you, such, and so many, honest
 and faithful men of their Bally-
 wicks, by whom the truth in
 the premisses may be best in-
 quired into, and found out. In
 witness, &c. witness the said
 Lord Lieutenant at *Dublin*, the
 30th of *February*.

Ibid. 6. Hen.
 Rot. pat. tur.
Berming.
 part. 2. in
 dorso.
 * Ibid in
 dorso.

The like Commission we find in the 6th of *Hen. 4.* di-
 rected to *Janico Dartas*, for the Counties of *Meath*, *Dub-*
lin, *Lowth*, and *Kildare*: and also * in the 7th of *Hen. 4.*
 a Commission is granted to *Laurence Merbury*, Treasurer of
Ireland, and divers Officers, wherein the statute of the 15th
 of *Edw. 3.* against Provisors is at large recited, and the sta-
 tute of the 13th of *Rich. 2.* by which Commission they have
 power given them to hear and determine of the breach of
 those statutes,——Secundum legem & consuetudinem Regni
 nostri *Angliæ*, ac terræ nostræ *Hiberniæ*, nec non vim for-
 mam et effectum Provisionum, Statutorum, & Ordinationum,
 temporibus Progenitorum & Antecessorum nostrorum Regni
 nostri *Angliæ* inde Confectorum——according to the law
 and custom of the Kingdom of *England*, and Land of *Ire-*
land, and the force, form, and effect of the Provisions, sta-
 tutes,

tutes, and ordinances, made in the times of our Progenitors and Ancestors of our Kingdom of *England*.——And in particular of one *William Oulton*, who is said in that Commission to have procured a Provision from the Pope for the Treasurership of the Cathedral Church of *St. Patrick's Dublin*, and of the Church of *St. Andrew*, annexed to the said Treasurership. By all which it is plain, that though these statutes (as in the Commissions are recited) were made in the Parliaments at *Westminster*, yet they were received and executed in *Ireland* many years before the statute of the 32d. of *Hen. 6.* in *Ireland*, which confirms them; whereby it is manifest, that the Author is deceived in his whole discourse in this part, wherein he takes it for an infallible truth, upon which he much rests, that the statutes of *England* were confirmed in *Ireland* before they were there executed; and that before their confirmation in Parliament there they were not there of force.

The next statute by him cited is of 37. *Hen. 6.* in *Ireland*, which in effect is the same as that of 18th *Hen. 6.* Chap. 1. in *England*, concerning the dates of Letters Patent, which must needs be the statute he means; for there is no other but that only made in that Parliament in our printed statutes, and wherein all that tends to this purpose are the words at the end of it, which limits it to begin the first of *March* next following, and from thenceforward. The like is the statute of 8. *Edw. 4.* by him cited for one of his judgments in Parliament, which saith, “that the People learned
“in this Kingdom have conceived some doubts, whether
“the statute made in *England* (which was the statute of
“6. *Rich. 2d.* concerning Rapes) ought not to be of force
“in this land. In avoiding of all inconvenience, and the
“mischief which might happen because of the ambiguity of
“that statute, it is enacted, that the said statute be adjudged and approved in force and strength, and that the
“said statute may be of force in this land from the 6th of
“*March* last past.” By which it appears that they agree, that the statute be adjudged in force and strength against the doubt which was made, whether it were so or no before; but for the execution of it, which is another clause distinct from adjudging it to be of force, it seems it was thought fit, that it should be of force as to the execution from the 6th of *March* last past before the statute; and so for the said
statute

statute of 37. *Hen.* 6. that it should begin to be of force from the first of *March* next following the statute. And this exposition stands with good reason, and with the use and practice of those times of putting the laws made in *England* in execution there. For as it appears before, the statutes of *England* were transmitted thither under the King's Seal, and there published, and from that time executed; therefore it is probable, that these statutes had not been transmitted thither, and therefore, though they should be of force there upon their making, yet it were hard that they should be there executed, before the People of that Land had notice of them; and therefore these statutes do publish themselves, and limit the execution of them from about the time of their publication; and this exposition ought the general clause in the Act of 8 *Edw.* 4. to receive, which saith, "that from henceforth the said Act (that is, the statute of 6 *Rich.* 2.) and all other Acts made by authority of Parliament in *England*, be ratified and confirmed, and adjudged by authority of this Parliament in their force and strength from the said 6th of *March*." And according to this exposition seems to be the opinion of the Parliament in the 14. *Hen.* 7. for punishing of Customers, &c. for their misdemeanors, which enacts, "that all and every Act of Parliament made in *England* for punishing of customers, &c. be put in execution by the Officers of this Land, according to the tenor of them, and as they be put in execution by the King's Officers in *England*; and that every of the said Acts be authorized and affirmed by this present Parliament, provided that this Act shall not be put in execution till the said Act of *England* be proclaimed at *Dublin*, &c. to the intent that Merchants may know what these Acts be, and the pains of the same."

By this Act it appears, that first it is ordained, that the Acts in *England* be put in execution, and then declares, that they are authorized and affirmed as Acts (by which word *authorized* is meant only *declared* to be of force, as will appear by the answer to the next statute) there to be executed, but not before notice given of them to the People. And this we see daily by experience is the use in all Commissions, that although they be of force from the sealing and making of them, yet until they be published, that notice may be had of them, men are not punished for disobedience

to them. But in all these fore-recited statutes, there is not a word, that the laws of *England* were not of force there before confirmed, nor any thing tending that way, which no doubt would have been in some of them, if the Parliament there had so conceived the law to be.

Another of the statutes by the Author cited is, 10. *Hen.* ^{10. Hen. 7. Chap. 22.} 7. Chap. 22d, commonly called *Poining's Act*, which saith, "forasmuch as there hath been many good and profitable statutes made in *England*, &c. whereby the said realm is ordered, and brought to great wealth and prosperity, and by all likelihood so would this land, if the said statutes were used and executed in the same. Therefore it is ordained, &c. that all statutes late made in *England* concerning the common and publick weal of the same, from henceforth be deemed good and effectual in law, and ever be accepted, used, and executed in this land of *Ireland* in all points, &c. and over that, by authority aforesaid, every of them be authorized, proved, and confirmed in this land of *Ireland*." From which statute, if the words of it be well observed, and compared with the words of the statutes of the same Parliament, Chap. 5. and 8. no such conclusion will follow, as the Author would have, but the contrary. For, saith the statutes, by all likelihood this land would flourish as well as *England*, if the statutes of *England* were used and executed in the same, not if they were made laws there, therefore it doth ordain, that from henceforth they be deemed good and effectual in law, and over that, they be accepted, used, and executed in this Land of *Ireland*. Now, if we look upon the statute made this very Parliament, Chap. 8. we shall the better understand what the sense and meaning of the same Parliament was by these words (*deemed good and effectual in law*) for that statute recites, that forasmuch as the statutes of *Kilkenny* were made for the publick weal of the King's subjects in *Ireland*, to keep them in due order and obedience; and all the season that the said statutes were set in use, and duly executed, the said land continued in prosperity and honour, and since they were not executed the subjects rebelled, &c. The premises considered, be it ordained, enacted, and established by authority of this Parliament, that all and every of the aforesaid statutes be authorized, approved, and confirmed, and be deemed good and effectual in the law duly

to be inquired of, and executed according to the tenors of them, and every of them. I think no man will deny, that the statutes of *Kilkenny*, which were made there, 40 *Edw.* 3. were in force there when this statute was made; for that very Parliament. 10. *Hen.* 7. Chap. 18. a statute was made for the extirpation of a new manner of coin and livery upon pains comprized in the statute of *Kilkenny*. Why then should this statute Chap. 8. ordain, that the statutes of *Kilkenny* be authorized (the very word used in the statute of *Hen.* 7. Chap. sole, before cited) approved, and confirmed, and deemed good and effectual in the law, and to be executed, &c. when out of all doubt they were in force, before? Certainly it could be to no other end than to declare them so to be, that the People might take the better notice of them, and more duly see them executed. The like is the statute against Provissors made that Parliament of 10. *Hen.* 7. Chap. 5. which ordains, that all manner of statutes, as well made within the realm of *England*, as within the said Land of *Ireland*, against Provissors, by authority of this very Parliament, be authorized, approved, and confirmed; and be deemed good and effectual in the law, as hath been before shewed. There was no manner of doubt but that they were of force before, and likewise confirmed by the aforesaid statute of 32. *Hen.* 6. So this statute of 10. *Hen.* 7. Chap. 22. because it was, and is, very probable, that many of the statutes made in *England* since the 8. *Edw.* 4. were not transmitted thither (for the statute saith they were lately made) so that the People of that Land might take notice of them, therefore this statute doth publish and declare all the said statutes to be deemed good and effectual in the law, and that from thenceforth (that is, from the publication of them by this statute) they shall be used and executed.

And that this is the meaning of the makers of this statute appears by the title of it, which is, an Act confirming all the statutes made in *England*. Now, if the statutes of *England* were not of force before, then as to this Kingdom there were no such laws at all, and to confirm a thing which is not, is a meer void confirmation; for a confirmation of a thing that is void, or is not, is also in itself void.

void (*). Therefore, it must needs be, that this Parliament ^{(k) Coke's 1st. Inst. 295. Plowd. the Earl of Leicester's Case.} intended to confirm that which was before *in esse* there, that is, the laws of *England*, and to declare them to the People that they were of force, and ought to be executed.

Upon all which, considering that the laws made in *England* were there received and executed before any confirmation of them there, and that therefore these statutes ought to be expounded as declaratory laws only, giving notice to the Subjects that they should be obeyed, and not by the makers of them intended to be enacted as new laws, which were not there before, we may safely conclude, that none of these Acts make any thing for the Author's purpose, that the laws of *England* do not bind in *Ireland*, but rather the contrary.

But for a final answer to all these statutes, if we should admit that there were such statutes made there, as the first three by the Author alledged, of which we see no proof, and that the rest of the aforesaid statutes ought to be expounded according to the Author's sense, or that it were clearly expressed in them, that *Ireland* is not bound by the statutes of *England*, until they were there confirmed by Parliament, must it therefore of necessity follow, that the law is so? *If the foot should say, I am not of the body, is it therefore not of the body?*

It appears plainly before, that after the Conquest *Ireland* was bound by laws made only in *England*, which were executed there long before the statute of the 13th *Edw. 2.* which is the first statute by the Author alledged that confirms any of the statutes of *England*. It is likewise apparent, that after the statute of the 13th *Edw. 2.* and the 19th of *Edw. 2.* by him cited, the laws of *England* were there received and executed, without and before any confirmation of them in *Ireland*; and that laws made in *England* only for *Ireland* were there executed before any confirmation of them there. It is also evident (unless they will deny their own Acts of Parliament made in *Ireland* to be law) that *Ireland* is the King's proper dominion of *England*, and a part and member of *England*, and united and annexed to the same.

Shall then *Ireland* say, or can it say, I am not belonging to, or to be governed by the laws of *England*, or be ruled by them, because there is a law made there against it? Can any

any inferior Court bind the supreme Court, which governs them, and gives them laws? Sir *William Jones*, late Chief Justice of the King's Bench in *Ireland*, when he was resident there, declared his opinion clearly, that the laws of *England* did bind *Ireland*, and those statutes of the 13th of *Edw. 2.* and 19th of *Edw. 2.* and the 29th of *Hen. 6.* being urged against his opinion, his answer was, that in former times, when Popery reigned in *England*, the Pope did excommunicate the Bishop of *St. David's*, and thereupon the Bishop of *St. David's* did excommunicate the Pope: which of these two excommunications were then valid (said he) and of force? I think every man will say, the Pope's. So the Parliament of *England* have a long time made laws which bind in *Ireland*, and were there executed, as being always under their power; and the Parliament of *Ireland*, a member of *England*, makes laws, that they will not be bound by the laws of *England*, which of these laws shall be in force?

Many Cities and Corporations both in *England* and *Ireland* have power to make by-laws to bind themselves; but if they should make a law, that the laws that they make shall not be examined by the Courts of the King's Bench or Common Pleas, or that no law shall bind them but what they confirm and allow, no man will conceive that such laws are binding, even among themselves. So *Ireland* had power to make laws to bind themselves, and yet hath, following the directions of the statutes of the 10th *Hen. 7.* and the 3d and 4th of *Philip and Mary*, without having any relation to the Parliament of *England*, and without having their laws confirmed by the Parliament there; but hath not power to make such laws as may bind or exclude the Parliament of *England*, who hath power, and hath used to give them laws, and to confirm or revoke the laws which they shall make, as they please, as appears in *St. John's* argument before cited, or that they shall not be bound by laws made in the Parliament of *England*, of which representative body they are a part and member, any more than an inferior Court hath power to make laws contrary to the Common Law. And whereas the Author tells us of the judgments of eight several Parliaments in *Ireland* before the statute of the 10th of *Hen. 7.* to the contrary whereof, you see what ~~ones~~ they are, we may tell him, without any wresting of them,

them, of hundreds of judgments contrary to that which he would infer out of those statutes. For we see by the fore-named Records, that in the times of *Edw.* 1, 2, 3. *Rich.* 2. *Hen.* 4, 5, 6. until in *Edw.* the 4th's time, all the laws of *England* were there by a statute made in the 8th of *Edw.* 4. declared to be of force in all those times, the Judges in *Ireland* received the laws made in *England*, even those made for *Ireland* only, and put them in execution. These Judges were most of their own nation, and we ought to believe, that their judgments and opinions were, that the laws made in *England* were binding in *Ireland*, without any confirmation of them by Parliament there; otherwise they would not have received them, and put them in execution, but some in one time or other would have opposed them, and stood upon their laws made there, and the liberties which those laws gave them. But we do not find it mentioned at any time, that they, or any of them, ever did so, but in all times received the laws of *England*, and put them in execution, after they had been transmitted to them, notwithstanding any such statutes made to the contrary, as by the Author is alledged; which is an argument sufficient in itself to convince any, that the opinions of all the Judges there in all times were, that the laws (if any such were) made there to bind in the Parliament of *England* were in themselves merely void.

But saith the Author, besides all the foresaid statutes since the statute of *Hen.* 7. the judgments of five several Parliaments, viz. the 28th of *Hen.* 8. the 33d of *Hen.* 8. the 28th of *Eliz.* the 11th of *James*, and 10th of *Charles*, are, that the statutes in *England* cannot bind in *Ireland* till confirmed by a Parliament in *Ireland*, and that since King *John*'s time never any introductory or positive law hath been there received or executed, till they were there enacted by Parliament. The latter part of the Author's affirmation appears, by what has been said, to be utterly mistaken, and so are all the rest.

The judgments of five Parliaments so lately made make a great noise; but no manner of proof hath been made, that there are any such judgments, nor hath the Author produced any particular Act in confirmation of what he alleges, or which mentions such a thing. He tells us only of statutes made in these Kings times in *England*, which were afterwards

wards enacted in *Ireland*, and that they were not received, nor of force there, until they were afterwards enacted in several Parliaments in *Ireland*. But if, on the contrary, it should be said, that they were of force there before they were enacted there, I know not why it should not be believed, as well as what he saith, and that too upon a better ground than his bare assertion to the contrary; because laws made in *England* only in former times were received, and executed there, without any confirmation by Parliament in *Ireland*; and doubtless if these Acts he now speaks of had been either transmitted under the Seal, and commanded to be published and executed, or that *Ireland* had been particularly named in them, which amounts to a notice, there can be no true cause shewn, why they should not have been binding in *Ireland* as well as other statutes have been. And in truth the utmost that can probably be enforced from these statutes in these five several Parliaments is, that these statutes were made in *England*, but never executed in *Ireland* until they were enacted there. Therefore laws made in *England* did not bind *Ireland* before they were there confirmed by Parliament; for else why should they be enacted there?

To which it is answered, that there is only a presumption and probability, and *stabitur præsumptioni, donec probetur in contrarium*;—presumption shall prevail until the contrary be proved;—but when the contrary to the presumption appears, there the presumption vanishes. It were indeed a probable argument, if it were true, and stood singly by itself, and nothing else were in the case, that statutes made in *England* did not bind in *Ireland*, because they were never there executed till confirmed by Parliament in *Ireland*. But take all the case together. That statutes made in *England* (as is formerly proved) did bind in *Ireland*, and were there executed, without enacting them in *Ireland*, that they were only certified thither to be published, and so executed, that *Ireland* is a member of *England*, that these statutes made after in *Ireland*, which were before made in *England*, were never transmitted, nor *Ireland* in particular named in them, whereby the People of that land might take notice of them, that the enacting of them in *Ireland* is but a declaration, that those laws should be there executed only, instead of a transmission and publication of them, or particular nam-

ing

ing of *Ireland*, and then all this presumption will fall to the ground, and the argument be of no force.

The Author, after reciting the forenamed statutes, as proofs of his assertion, that *Ireland* should not be bound by the laws of *England*, without confirmation of them there, makes some objections. In the first whereof, taking it as a thing granted, that the laws of *England*, where *Ireland* is not named, do not bind in *Ireland*, yet (saith he) it may be objected, that all such laws as have been, or shall be, made in *England*, wherein *Ireland* is particularly named, are and shall be of force there without any confirmation in *Ireland* as the statute of the 14th of *Hen. 3.* called *Statutum Hiberniæ*—The statute for *Ireland*,—the Ordinance of the 17th of *Hen. 3.* called *Ordinatio pro statu Hiberniæ*,—an Ordinance for the state of *Ireland*,—and the opinion of *Hussey*, that statutes made in *England* shall bind *Ireland*, and likewise an opinion in *Calvin's case*, 7th Rep. fol. 17. that though *Ireland* be a distinct dominion from *England*, yet, the stile thereof being by conquest, the same by judgment of law by express words may be bound by the Parliament of *England*; for proof whereof the writ of error is cited, that it doth lie out of the King's Bench in *England* of an erroneous judgment given in the King's Bench of *Ireland*.

To the first of these objections he answers, that the statute of the 14th of *Hen. 3.* called *Statutum Hiberniæ*,—The statute for *Ireland*, is no introductory law, but an explanation of the Common Law; to which we only now say, that admit it to be so, yet that the power to make a declaratory law is one and the same with the power to make an introductory law, as we have shewn before, and therefore if they have power to make one kind of law, they have power to make the other.

Concerning the statute called *Ordinatio pro statu Hiberniæ*,—an Ordinance for the state of *Ireland*, he saith, it was never received there, nor is it an Act of Parliament, about which we will not now contend with him, having shewed before, that statutes made in *England* only were received in *Ireland*, and there executed; although something in this particular might be said, that might shrewdly trouble him, if it were needful.

As to the opinion of *Hussey*, what he hath objected against it, and how his objections and reasons are answered, we have declared before.

Concerning the opinion in *Calvin's* case he saith, that besides the book cases in the 20th of *Hen.* 6. and the 2d of *Rich.* 3. (which books he much relies on, and often cites, though to what purpose we have before examined) he saith, we shall find divers judgments of Parliaments in *Ireland* to the contrary since the statute of *Hen.* 7. and cites three Acts in *Ireland*, which had been formerly made in *England*, and then tells us of many inconveniencies may happen if the law should not be as he saith, and then at last comes again to answer the objection, which himself raised concerning the writ of error, which we will for order's sake first consider, and put all his arguments together concerning it, and then look upon his three Acts, and the inconveniencies by him alledged.

Although (saith he) a writ of error to reverse a judgment of the King's Bench in *Ireland* may be prosecuted in the King's Bench in *England*, it doth not therefore follow, that the Parliament in *England* may repeal, alter, or change, any of the statutes of the land, or give new laws unto them. For, if a writ of error be brought in *England* to reverse a judgment given in the King's Bench in *Ireland*, the Judges in *England* are not thereby to change the laws of *Ireland*, or give judgment according as the law is in *England*, but as the law is in *Ireland*, where the first judgment was given. As if a man be attainted of Felony, the wife in *Ireland* shall be barred to demand her Dower; but in *England* by the statute of *Edw.* 6. she shall not be barred; and the Judges in *England*, upon a writ of Error in such a case, must judge as the law is there in *Ireland*, which case is granted; for the statute of *Edw.* 6. was never published in *Ireland*. But what conclusion the Author would draw from hence he doth not express, nor, I think, can any surely guess, unless he will from hence say, that therefore the Parliament of *England* cannot make laws to bind in *Ireland*, because they must judge of cases in *Ireland* as the law is in *Ireland*, and not as the laws are in *England*, if their laws in any particular differ. And, if that be his meaning, we deny that argument. For we may as well say, if a question were between Parties concerning the title of *Gavel-kind* or *Borow-English* lands

lands in any of the King's Courts, because the Judges must judge the right of the land to be according to the custom of *Gavel-kind* or *Borow-English*, and not according to the rules of the Common Law, therefore these lands are not subject to an Act of Parliament to alter that custom, and make those lands descendible according to the course of the Common Law.

But in truth, the argument in *Calvin's* case to prove, that *Ireland* is not absolute, and separate from *England*, but subject to the Parliament and laws thereof, is, that the declaration of the laws in *Ireland* is subject to the exposition of the judges of the King's Bench in *England*, and that *Ireland* is bound by them, and that therefore *Ireland* is not absolute of itself, but subject to, and under the government and power of *England*, and to receive laws from them. It is confessed on all sides, that a writ of Error lies out of the King's Bench in *England* to a judgment given in the King's Bench in *Ireland*, and so hath been the constant practice, and so mediately of judgments given in other Courts. For if a judgment be given in an inferior Court, which by writ of Error is affirmed in the Common Pleas, which judgment by another writ of Error is again examined and affirmed in the King's Bench, yet upon a writ of Error out of *England*, the King's Bench there may reverse the judgment given in the King's Bench in *Ireland*, and command execution to be done according to their judgment, contrary to all the former judgments given in *Ireland*; and that judgment also may by writ of Error be brought into Parliament in *England*, and there be examined. How then can it possibly hang together, that *Ireland* should be a distinct separate Kingdom, over which the Parliament of *England* has no power, when one ordinary Court of Justice in *England*, subordinate to the Parliament of *England*, hath power to contradict all the expositions of laws, and command them to execute the laws, as they shall expound them, and have power to punish them if they do not. For, to have power to declare what the law is, and to cause it to be executed, as it is declared, is the most sure and undeniable argument of power in them that command, and of subordination in them that obey, that can be.

Again, if *Ireland* were absolute of itself, and not under the power of the Parliament of *England*, the writ of Error

of a judgment given in the King's Bench in *Ireland*, ought to be returnable only in the Parliament of *Ireland*, and not in the King's Bench in *England*; but we see it usual to be in either.

There is in *Ireland* the copy of a Record, which is said to agree with the Record in the Treasury of the King's Bench in *England*, and to be *de Termino Trinitatis*, Anno Hen. 6. 6^{to} Rot. 41. The Record is exceeding long, but the substance of it is, that a writ of Annuity was brought in the Court of Common Pleas in *Ireland* by the Prior of *Lhanthony* in *Wales* against the Prior of *Mullengar* in *Ireland*, wherein the Prior of *Lhanthony* had judgment, which was by writ of Error brought into the King's Bench in *Ireland* by the Prior *Mullengar*, and there the judgment of the Common Pleas was affirmed. Upon this the Prior of *Mullengar* brought a writ of Error in the Parliament of *Ireland*, where both the former judgments were reversed. And thus far of this case we find in the Parliament Rolls of *Ireland* in the 5th of Hen. 6. Upon which the Prior of *Lhanthony* brought a writ of Error out of *England* upon that judgment given in the Parliament of *Ireland*, returnable in the Chancery of *England*, which being thither returned, together with the whole Record, was by the Chancellor of *England* *per manus suas proprias*—by his own hands, delivered into the King's Bench in *England*, and saith the Record,

Postea (sc.) termino S. Hillarii ultimo præterito, coram Domino Rege apud Westmonasterium venit prædictus Prior de Lhanthony per Alexander Kingston, Attornatum suum, et dicit, quod in Recordo & Processu prædicto, ac etiam in redditione Judicii prædictæ Loquelæ in dicto Parlamento Domini Regis, ut præmittitur, habiti, diversimodè est erratum, et petit breve ad præmuniendum præfatum Priorem de Mullengar essendi coram Domino Rege ad

Afterwards, to wit, in Hillary Term last past, the said Prior of *Lhanthony* appeared before the King at *Westminster*, by *Alexander Kingston*, his Attorney, and said, that in the said Record and Proceſſe, and also in the giving Judgment upon the said plea in the said Parliament of the King, had, as aforesaid, there are divers errors, and demanded a writ to warn the said Prior of *Mullengar* to appear before the King to hear the Record and Proceſſe upon the said Plea in the said Parliament

ad audiendum Recordum et
 processum prædictæ Loquelæ
 in dicto Parlamento Domini
 Regis, ut præmittitur habitos,
 si, &c. per quod Mandatum
 fuit Venerabili in *Christo* Pa-
 tri, *Richardo*, Archiepiscopo
Dublin, Cancellario Domini
 Regis in terrâ ipsius Domini
 Regis in *Hiberniâ*, quod idem
 Cancellarius per breve Do-
 mini Regis dictæ terræ ipsius
 Domini Regis mandari faciat
 Vicecomiti Domini Regis *Midie*
 in eadem terrâ, quod
 idem Vicecomes per probos,
 &c. scire faciat præfato Priori
 de *Mullengar* essendi coram
 Domino Rege ad hunc diem
 (sc.) in octabis *S. Trinitatis*
 ubicunque, &c. audituro Re-
 cordum et Processum dictæ
 Loquelæ in dicto Parlamento
 Domini Regis, ut præmitti-
 tur, habitos, &c.' All which
 being done, as the writ com-
 manded, saith the Record,
 et præfatus Cancellarius Do-
 mini Regis in terrâ dicti Do-
 mini Regis in *Hiberniâ*, re-
 turnavit, quod per breve Do-
 mini Regis terræ *Hiberniæ*
 mandari fecit præfato Vice-
 comiti *Midie*, quod idem
 Vicecomes per probos, &c.
 scire faceret præfato Priori
 de *Mullengar* essendi coram
 Domino Rege ad præfatam
 octabis *S. Trinitatis*; qui
 quidem Vicecomes returnavit,
 quod scire fecit, &c. Qui
 quidem Prior de *Mullengar*
 juxta præmunitionem prædic-
 tam sibi in hac parte factam
 per *Andream Pill*, Attorna-

ment of the King, had, as a-
 foresaid. If, &c. upon which
 a Mandate issued to the Vener-
 able Father in *Christ*, *Richard*,
 Archbishop of *Dublin*, Chan-
 cellor of the King in *Ireland*,
 that the said Chancellor should
 command the King's Sheriff of
Meath in the said land, that
 the said Sheriff should by good
 and lawful men warn the said
 Prior of *Mullengar* to appear
 before the King on this day,
 namely, on the octaves of the
 Holy *Trinity*, &c. to hear the
 Record and Proceſſe of the said
 Plea in the said Parliament of
 the King held as aforeſaid, &c.
 All which being done, as the
 writ commanded, saith the Re-
 cord, and the said Chancellor
 of the King of the said land of
Ireland returned, that by ver-
 tue of the King's writ he issued
 a Mandate to the said Sheriff
 of *Meath*, that he should by
 honest, &c. summon the said
 Prior of *Mullengar* to appear
 before the King on the said
 octaves of the Holy *Trinity*, to
 which the said Sheriff returned,
 that he had warned, &c. And
 the said Prior of *Mullengar*, ac-
 cording to the said summons
 upon this occasion served, ap-
 peared by *Andrew Pill*, his
 Attorney, and thereupon a day
 was given, as well to the said
 Prior of *Lhantony*, as to the
 said Prior of *Mullengar*, in the
 same state as at present, before
 the King to the octaves of *St.*
Michael, whereſoever, &c.

‘ tum suum, venit, et super
 ‘ hoc dies datus est tam præ-
 ‘ fato Prior *Lbanthoniæ*, quam
 ‘ præfato Priori de *Mullengar*,
 ‘ in statu quo nunc coram Do-
 ‘ mino Rege usque in octabis
 ‘ S. *Michaelis*, ubicunque, &c.’

By this Record it appears, that a writ of Error hath been brought in *England*, whereby a judgment in the Parliament of *Ireland* was to be examined in the King’s Bench of *England*, which writ was executed, the Records sent thither, and the Plaintiff and Defendant in the said writ of Error there appeared, and had day given them to the term following; and doubtless, if it had been conceived, that *Ireland* had been so absolute of itself, that the Parliament of *England* had no power over it, there would have been exceptions taken to the writ of Error, especially being between such manner of men, who would lose no advantages that might have made for them, and to whom three judgments before could not give satisfaction. And therefore, it is more than probable, that it was in these times conceived, that the King’s Bench in *England* had power to examine a judgment given in the Parliament of *Ireland*, and if they had, then much more had the Parliament of *England* such power. And therefore, from what has been said, we may truly conclude a *Minori ad Majus* (which is an argument that always holds affirmatively, for *quod in Minori valet, valebit in Majori*) that an inferior Court in *England* to the Parliament there, as the King’s Bench, hath power over them in *Ireland*, and can bind them, therefore much more hath the Parliament, which can bind even the King’s Bench in *England*.

And whereas the Author saith, that though a writ of Error may be prosecuted out of the King’s Bench in *England*, to reverse a judgment in the King’s Bench in *Ireland*, it doth not therefore follow, that the Parliament of *England* may repeal the statutes of *Ireland*, or give new Laws to them. I answer, that therefore it doth follow, because the King’s Bench in *England* hath power to repeal the judgments of law given in *Ireland*, and declare the law to be according to their judgments, contrary to the judgments given in *Ireland*, which they ought, and ever have obeyed, therefore much

more

Coke 1. Instit.
 fol. 253.
 260.

more hath the Parliament of *England* power over *Ireland* to repeal or alter the laws, or give them new ones. And if they have any power over them, it must needs be in those things; because the power of Parliaments consists chiefly in altering, repealing, and giving new laws, and if this power be denied them, they shall have little or no power at all.

But yet the Author hath not done with his Writ of Error. He thinks it sticks close to him; and therefore, after a large discourse of other matters, towards the end of his book, he saith, that about 9 years after the opinion delivered by *Hussey*, *Coke* in *Calvin's* case broached the like doctrine, but was not so liberal as *Hussey*, limiting it only to statutes, when *Ireland* is particularly named; and for his proof saith, he alledgeh no authority but the Writ of Error to reverse the erroneous judgments in *Ireland*, which is neither *ad idem*, nor upon the same reason: for, saith he, (I pray mark his reasons) the Writ of Error had a long and continual usage to warrant it, whereby it hath obtained the force of a law, being neither against the law of reason, nor law of God, or against any maxim of the Common Law, nor against any statute law; especially, because the Judges of *England* upon the Writ of Error must judge according to the law of *Ireland*, and not according to any other law, and also hath two rules of law to support the same, (*viz.*) *a communi observantiâ non est recedendum*.—Common customs must not be departed from—and, *consuetudo est optima legum interpretres*.—Custom is the best interpreter of laws. But to warrant the opinion of *Hussey* or *Coke*, there is neither law of reason, nor usage, nor any other ground of law.

The Author, it seems, is angry with all that are not of his opinion, though he shews no reason for it, else he would have spared such language of Lord *Coke*, as broaching an opinion, whose memory for his high deserts of these Kingdoms, and his extraordinary deep learning, and judgment, both he and we all should ever honour. But why is not *Coke's* citing of the Writ of Error *ad idem*, not upon the reason? Because, saith he, the Writ of Error had a continual usage to warrant it, whereby it hath obtained the force of a law, being neither against the law of reason, nor the law of God, nor the maxims of the Common Law, or statutes. Doubtless, this is no good reason, by which he him-

self, seeking to condemn *Coke's* opinion, doth make it good, and justifies it; for, in effect, it is only this. The law is, saith he, that the King's Bench of *England* hath power over the King's-Bench here in *Ireland*, because it hath had a longer usage to warrant it; therefore, say we, it must of necessity follow, that the law of *England* hath power over *Ireland*; for it hath had so by a long usage and continuance: neither is it against the law of reason, nor of God, nor against the maxims of the Common Law, nor any statutes in force, that the Parliament and laws of *England* should bind in *Ireland* in any particular, but agreeable to the law of reason: for by that law, and continual usage, Conquerors may give laws to the conquered; and, as he confesseth, that the usage of the Writ of Error hath made it a law, so the usage of the Parliament of *England* doth make their Acts bind in *Ireland*, if there were no other reason, this were argument sufficient, that the law is so; and the Author by his own confession, that by the usage of the Writ of Error it hath obtained the force of a law, doth thereby confess, that *Ireland* is subject to the government of *England*; for that law, which he confesseth to be law, gives power to the government of *England* over *Ireland* to controul them there; which being law by his own confession doth utterly destroy that opinion of his, that *Ireland* is absolute of itself, over which *England* has no power; and, if *Ireland* be so in this case, I would willingly hear, why it should not be so in all others, especially considering the former proofs, that *Ireland* hath from time to time received the laws of *England*, and had them there executed, and were governed there by them. And for his two rules in law, they make clearly against him. For the custom having always been, that the Parliament of *England* made laws which did bind in *Ireland*, and which there are still observed, therefore custom will interpret, that the law is so, from which we must not recede. And whereas the Author would not have *Ireland* bound, though it be particularly named in an Act in *England*, for which he shews us no reason, yet I cannot be satisfied, but that it may be bound, though not particularly named, as it appears they have been from time to time, if the statutes made in *England* were sent thither, and published, and commanded to be put in execution, as it was done in former

mer times, before they were declared there by Parliament, of which opinion *Hussey* seems to be. For he saith, generally, that the laws in *England* do bind in *Ireland*. Neither do I find, or ever heard it to be adjudged, that the Parliament of *England* cannot by their Acts bind *Ireland*, unless it be particularly named, although the Judges in later times have made exposition, that they do bind if *Ireland* be named; by which it seems they intended, that they of *Ireland* ought to have notice of the laws made in *England*, before they be bound by them, which upon the matter is all one with the antient usage done either by transmitting the Acts out of *England*, as aforesaid, or by naming them particularly in the Act.

Now, let us examine the statutes, which the Author cites to prove, that notwithstanding *Ireland* be named in a statute made in *England*, yet it doth not bind *Ireland* without confirmation of it by Parliament there. For clearing of this point, saith he, and answering this objection, we shall find divers judgments of Parliament in *Ireland* contrary to the opinion of *Calvin's* case (which is that *Ireland* may be bound if it be particularly named) since the 10th of *Hen. 7* and he cites three statutes; where, by the way, we may observe, that he appeals to the judgment of the Parliament of *Ireland*, whom he would have to be Judges in their own cause, whether *England* can bind them or not. Though indeed they give no judgment therein, nor meddle therewith, unless it be to give judgment against him.

The first of his statutes is the Act made of 24th *Hen. 8.* Chap. 12. in *England* concerning Appeals, which Act by express words, extends to all his Majesty's dominions; yet, says he, that Act was not received, nor of force in *Ireland*, until it was there enacted in 28. *Hen. 8.* Chap. 6.

Also the statute in 26th *Hen. 8.* made in *England*, concerning first-fruits of the Clergy, extends by express words to all the King's dominions, yet was not of force, nor received in *Ireland*, until enacted there in 28th *Hen. 8.* Chap. 14.

Likewise, saith he, the Act of Faculties made in *England* in 21st. *Hen. 8.* extends by express words to all the King's dominions, yet was not received, nor of force in *Ireland*, until enacted there in 28th *Hen. 8.* Chap. 19.

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This is an argument of the same kind that his former were upon the aforefaid statutes formerly cited by him, that they were first made in *England* before they were executed there, therefore they were not of force there before, and therefore may receive the same answer that the former did; only, he saith, that these statutes by exprefs words extend to all the King's dominions, and yet were not of force in *Ireland* until they were enacted there. But how proves he that? We have not one word from him to prove it, or is there a word in these statutes which makes it appear, that the Opinion in *Calvin's* case is not law, or that these statutes made in *England* were not of force in *Ireland*, before they were confirmed there by Parliament.

There was a statute made in *Ireland* Anno 18th *Edw.* 2: as we may find it in a Patent Roll of that year remaining in the Exchequer in *Ireland*, that the Common Law, and the good usages of the Land be kept and maintained in all points. Was not the Common Law therefore of force in *Ireland* before that statute? And it plainly appears, that these Parliaments in *England* did conceive, that these three acts were of force in *Ireland*, and to be executed there. For the statute of 24th *Hen.* 8. in *England*, concerning Appeals to *Rome*, saith, that if suits be commenced before the Bishop *Diocesan*, then the Appeal must be to the Archbishop of *Canterbury*, if it be within his Province, and if it be in the Province of *York*, then to the Archbishop of *York*, and so likewise (saith the statute) to all other Archbishops in other the King's Dominions, as the case by order of justice shall require. So that by the judgment of all these three Parliaments, who declared, that these Laws were to be executed in all the King's Dominions, they had power to make Laws to bind *Ireland*, otherwise, as is said before, they should shew much ignorance, and offer to deal very unjustly, which no man ought to imagine of them. The statute of 25 *Hen.* 8 Chap. 10. concerning the electing of Archbishops, &c. hath the same words, that at every avoidance of any Archbishoprick, &c. within this Realm, or in any other the King's Dominions, &c. which statute he after in answer to his own objections confesseth, was never confirmed in *Ireland*, yet was in *Ireland* executed, as we may see in *Fitz Herbert's* natura Brev. Fols 169. of which more hereafter. And therefore we may more truly say than the Author doth

to the contrary, that since the statute 10. *Hen.* 7. we find divers Acts of Parliament in *England*, which did adjudge *Ireland* bound by the statutes made in *England*. And this appears by the statutes themselves in *Ireland*, which confirm the three aforesaid statutes. For the statute of 28. *Hen.* 8. Chap. 6. concerning Appeals in *Ireland*, saith, that the land of *Ireland* is the King's proper Dominion of *England*, and united, and belonging to the Imperial Crown thereof, which Crown of itself, and by itself, is fully, wholly, intirely, and rightfully endowed with all power and authority to yield to all their Subjects of the same full and plenary remedies in all cases of strife, &c. If therefore *Ireland* be the King's proper Dominion of *England*, united to the Imperial Crown of the same, then is it not an absolute divided Kingdom from *England*? If the subjects of *Ireland* be the subjects of the Crown of *England*, which Crown of itself can give remedies (*i. e.* Laws) for the Government of all that are subjects to that Crown, then can it give Laws to *Ireland*, as to the subjects of the Crown of *England*, and as members thereof. And by the other statute by him cited, *viz.* 28. *Hen.* 8. Chap. 19. of faculties, it is in a manner declared plainly, that that very statute in *England* doth bind *Ireland*; for after that the whole statute made in *England* is therein recited, then saith that statute, forasmuch as it is mentioned in that act, that the effects thereof should not only extend to the Realm of *England*, and to the commodity thereof, and of the subjects of the same, but also to all other the King's Dominions, and his subjects, and that this the Kingdom of *Ireland* is his proper Dominion, and a member appending and rightfully belonging to the Imperial Crown of *England*, &c. Be it therefore enacted, that the said Act, and every thing therein contained shall be established, affirmed, taken, and obeyed, as a good and perfect Law, &c. By which it is very manifest, that the Parliament in *Ireland* did conceive themselves to be members of the Crown of *England*, and were to receive Laws from them, and that *Ireland* was not absolute of itself; but saith the act, because the act in *England* did mention, that it should not only extend to *England*, but to all other the King's Dominions, and that *Ireland* is a member of *England*, therefore they declare this act to be a good and perfect Law, and to be obeyed in *Ireland*.

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But, saith the Author, these acts were never received nor executed in *Ireland*, until they were enacted by Parliament there. To which it is answered, that neither he nor we can tell, whether they were executed there or not, or whether they were published there before they were enacted there or not, though it be likely they were not. For the act of Faculties was made in *England* in 21 *Hen. 8.* and, which is seven years after, in 28. *Hen. 8.* confirmed in *Ireland*. The act of first fruits was made in *England* 26 *Hen. 8.* and within two years after, in 28 *Hen. 8.* confirmed in *Ireland*. The act of Appeals was made in *England* in 24. *Hen. 8.* and within four years after, in 28. *Hen. 8.* confirmed in *Ireland*. And if we consider the great consequences of those acts, that they concerned the change of a great part of the Government of *England*, and did much concern the Clergy, who then had the powerfullest part of the Kingdom, we may well think, that the state of *England* had care first to settle these Laws in that Kingdom, before they could publish them, or command them to be executed in *Ireland*. And though the state of *England* and *Ireland* did well know, that these Laws did bind *Ireland*, yet considering likewise, that the People of *Ireland* were, in a manner, wholly addicted to the *Pope*, and governed much by the Clergy, whom these acts did so much concern, it was wisely and circumspectly done to have those laws taken notice of in a time, which they thought fittest, and that in the most publick manner they could, which was by declaration and confirmation of them in Parliament, that the whole Kingdom might be the better satisfied of their force, and strength, which if they had not been so done, yet being made for all the King's Dominions, were of force without any such declaration.

The Author, having cited these statutes, saith, that forasmuch as the Laws of *England* and *Ireland* do not admit of any inconveniencies, it is to be considered, what inconveniencies may follow, if the Kingdom of *Ireland* should be bound by any statute made in *England*, and not confirmed by act of Parliament in *Ireland*. First, saith he, the Parliament of *Ireland* would be nugatory and superfluous, if by naming *Ireland* in any statute made in *England*, *Ireland* should be bound, and then all the Parliaments held in *Ireland* since the 12th of King *John*, for the space of about

400 years, should be needless and superfluous, which is not to be imagined.

The Author in all his discourse lays down many things, as granted to him, which are utterly mistaken, and to be denied, or else from them he draws such conclusions, as are not consequential, as in this inconvenience by him alledged. For, though the Parliaments in *England* may by statutes bind *Ireland*, yet it doth not follow, that the laws made in *Ireland* are nugatory. The Cities of *London*, *Dublin*, and many other Cities both in *England* and *Ireland*, have power, and do use to make Laws for the better order and government of their Corporations, many of which have been allowed and confirmed unto them by Acts of Parliament, and this thought to be convenient for the better regulating of them; yet no man can truly conclude from thence, that this is superfluous or nugatory; because the Parliament may take away that power from them, or avoid all the Laws by them made. So the Parliament of *Ireland* hath power to make Laws, for they may find many inconveniencies fit to be remedied, which the Parliaments of *England* may not be informed of; and so they have from time to time done, by which Laws they have continually governed, and yet are, and which have never been contradicted by the Parliament of *England*, nor, for ought we know, never will; but yet it doth not follow from thence, that the Parliament in *England* cannot make Laws to bind *Ireland*, no more than in the former case of Corporations; neither is it to be imagined, that the Kings and Parliaments in *England* will ever avoid any Laws made in *Ireland* without good and just cause, since they have not done any such things for about four hundred years, which is time enough to have experience of their honour, Justice, and care of this Kingdom, in which this Kingdom, next under God, ought chiefly to trust.

The second inconvenience cited by the Author is, that if the statutes made in *England* should bind in *Ireland*, then by the same reason a statute made in *England*, may repeal, alter, or change, all the statutes hitherto approved of, or which hereafter may be approved of in *Ireland*, which were a thing marvellous inconvenient for that Kingdom; and *Littleton* saith, that the Law will rather suffer a particular mischief, than a general inconvenience: and it is most certain

tain that—*Argumentum ab inconvenienti est in lege fortissimum*—An argument drawn from an inconvenience is of the greatest force in Law.—The 3d inconvenience alledged is, if the Parliament of *England* and *Ireland* be holden at one and the same time, as they now are, and the one Parliament should make a Law, and the other should make another Law directly contrary in some point, it may be demanded, which of these Laws should be obeyed in *Ireland*.—To which I answer, that such a thing cannot be supposed to be done, unless the Author will admit, that the King, without whose consent neither of these acts can be made, doth consent unto them both; and I hope no body will lay such an imputation upon the King, as to make him do one thing in *Ireland*, and the direct contrary in *England*, and all this at one time, and both for *Ireland*. But if he will have it admitted, that such a thing is so done, I answer, that considering what before is proved of the subjection of *Ireland* to the Parliament of *England*, that the Law made in *England* is to be obeyed, and not that made in *Ireland*; and no more absurdity or inconvenience will follow of it, than that a Law made in a Corporation, which hath power to make Laws, should be void, if an act of Parliament were made directly contrary to the Law.

The 4th inconvenience alledged is, if statutes made in *Ireland* by them, who best know the state and condition of the Kingdom, and People there, should be repealed or changed, or new Laws imposed by the Parliament of *England*, which cannot possibly know the state and condition of the Kingdom of *Ireland* so well, as those who inhabit, and have been born there, or lived there many years, it would be very inconvenient. For then, no man's estate could be secure or permanent by the Laws of *Ireland*, and what dangerous consequences may follow thereon by the discontent of that Nation, he leaves to the consideration of those that are in authority, and best know how to prevent such inconveniencies. And, considering the statutes of *Ireland* are made with such cautions, and in such form, as is prescribed by *Poining's* act, and the statutes of 3. and 4. *Phil.* and *Mary* (the substance of which statutes he recites) therefore he concludes, that he cannot conceive why the Laws and statutes, made in *Ireland* should be controuled, or any ways altered by any other authority, than by the Parliament of that

that Kingdom; for—*nil tam conveniens est naturali æquitati, unumquodque dissolui eo ligamine, quo ligatum est.*—Nothing is so agreeable to natural equity, than that every thing should be dissolved by the same tie, by which it is bound.

The Author's inconveniencies hang much upon one string, as on this, that the Parliament of *England*, if they should bind *Ireland*, may alter men's estates, so that they could not be secured by a Parliament in *Ireland*, (which is in substance the same with his second inconvenience) which, as is said before, cannot be supposed so long as we shall conceive them to be just and honourable; and the same argument may be made against their having any Parliament in *England*; for they may alter and change the estates of the subjects there, and so may the Parliament do in *Ireland*; so as men can have no secure and permanent estates: and therefore we may as well conclude, there ought to be no Parliament in *England* or *Ireland*, or that they ought not to have power to bind men's estates, because they may change or alter them. But can the Author shew us, that they ever did so without just cause, and yet they have been intrusted many hundred years with our lives, liberties, and estates; therefore we may with good reason say, seeing the Kings and Parliaments in *England* have always laboured to settle the Kingdoms of *England* and *Ireland* in peace, and to secure their estates unto them, that they might enjoy them quietly without suits of Law, or other disturbances, and seeing that for above 400 years they have never done hurt to *Ireland*, nor taken away the right or estate of any man without just cause, but still endeavoured to maintain them in their rights, liberties, and estates, therefore we may well trust them hereafter, as well as they have been trusted hitherto, and not make a vain conjecture without any ground of reason, that they may disturb the estates of the subjects of *Ireland*, therefore they are not to be trusted or have power over them.

Concerning the ignorance of the Parliament of *England* of the state and condition of *Ireland*, and of the people thereof, and that those which were born, and have lived there many years, know it much better, and that the consequences may be dangerous in discontenting that nation, I marvel much, that the Author should at this time tell us of
these

these reasons to shake off the Government of *England*; I would he would give so much credit to the Parliament of *England*, as any reasonable man will to the Common Council of a Corporation, who will not in charity believe, that they will do any thing so ignorantly, but they will know and give some cause of their knowledge for what they do. But we all know with what great consultation, deliberation, and knowledge of things, and the circumstances of them, the Kings and Parliaments of *England* have still ordered their affairs; and therefore their own actions have justified them, and we may, as all our Ancestors have done, trust to their wisdom, justice, and Judgment, as a sufficient hedge and security for us.

But for the knowledge of those of *Ireland*, who were born, and have lived there many years, what it is, and what the conditions of too many of that people are, and how they are best able to redress the inconveniencies thereof, if we may judge of the most of such and of their Conditions, by the effects, we find by miserable experience, that they are such, as would utterly destroy the true worship and service of God, and all men that do profess it, which they have already done almost to the uttermost, that they would root out all the honest and good subjects of that Kingdom, which in a very great part they have done, and that by unheard of cruelties, that they would most unjustly and against all Laws take away all the estates of the *British* in the Kingdom, which with their estates drawn out of *England* and *Scotland* they have purchased there legally, and appropriate a great part of them to a barbarous, bloody, cruel, merciless sort of people, which they have likewise generally done throughout the Kingdom, and this not upon any discontent given them (which the Author it seems accounts a very dangerous thing) but at a time, when his Majesty had taken away all their pressures and grievances, of which they complained, and had granted them more graces and immunities, than ever former Kings had given them. Now men that are of this condition (and which are but too many of that Nation) that have done these, and many other most horrid villainies, and that in a time of peace, when all reasonable satisfaction was given them, and that without the least provocation offered them, and when they were trusted by the *British*, and accounted and used by them, as if they had been

been their dearest friends, and allies, and even many of those, who were convoked together to make Laws for the good of the Kingdom (for it appears evidently that many of the *Popish* Members of both Houses of Parliament were the great actors of this horrid treason) do not these men highly deserve to have power to make Laws without controul? Do they not well know the state and condition of the People, and how to redress their grievances? Doubtless the redress they would have is no other than utterly to root out the Protestant Religion, and professors of it, and utterly destroy both it and them. And if they have done these things when his Majesty laboured to give them all the content, that could stand with the state of that Kingdom, and Government thereof, what would they do, being Men of such a condition, if they had just cause of discontent indeed? Surely these their actions will too sufficiently inform the King and Parliament of *England* what the state and condition of that Kingdom and People is; so that it is not now to be doubted, but they better know in *England* what Laws are in truth fit for them, than they themselves do; and if ever they had cause, now they have, to maintain their right and power over them, which in all times heretofore they have had. And for the knowledge of men born there in former ages, and what Laws they have made, when they themselves had the Government there for the good of that Kingdom, look but upon the statute of 10. *Hen.* 7. Chap. 3. in *Ireland*, whereby it appears, that they had a custom in *Ireland*, that all Traitors, Rebels, &c. which came into *Ireland* for succour, should have free liberty without molestation, notwithstanding any command from the King directed to any Officer, &c. to be executed against them; which custom was approved by act of Parliament in *Ireland* in the time of *Hen.* 6. and by that act it was further ordained, that it should be treason for any Man that should bring any such writ or command to attach any such Traitor, &c. and such act was there put in execution, as by the statute of 10 *Hen.* 7. appears. And by a statute of 2. *Rich.* 3. Chap. 8. (which we shall at large recite) it was ordained, that the Chancellor of *Ireland*, the Treasurer, the Chief Justices, &c. (who are all named there in particular) shall be adjudged fully in every of their several offices, severally to have and to hold every of them severally his office for term of

PART II.

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life, any manner, matter, cause, or thing had, or to be had, to the contrary notwithstanding. And therefore their own act in 11 *Eliz.* Seff. 3. Chap. 8. in *Ireland* saith, that when liberty was given to the Governors to call a Parliament at their pleasure, acts passed as well to the dishonour of the Prince, as to the hindrance of the subjects; and if they did such things formerly, any indifferent man may judge, what those men, having so much expressed their intentions, would now do, if they had the same liberty.

As for the statutes of 10 *Hen.* 7. called *Poining's* act, and 3 and 4. *Philip* and *Mary*, doubtless they were statutes made with great wisdom, and may still be used to the great good of *Ireland*, which yet the *Irish* now much labour to have taken away, as we may see by their late remonstrances, and propositions; although formerly, when they were rightly affected to the Crown of *England*, and service thereof, they utterly refused to allow of any alteration or suspension thereof, and which if they should procure, and get liberty to make Laws without controul, the state of *England*, and all the *British* there, may in time take leave of Religion, Liberties, and all that is belonging to them in *Ireland*. But yet these Laws prove nothing at all, that the Laws made in *England* cannot bind *Ireland* without confirmation of them in Parliament there, nor is there a word in them to that purpose, but only they direct the order of making Laws in *Ireland*, when the King shall please to have a Parliament there summoned. And for the rule cited by the Author, that—*nil tam inconveniens, &c.*—nothing is so inconvenient, &c. I am sure he will not say, that things done in one Court cannot be avoided in another Court of as high a nature; for the meaning of the rule is, and so hath been ever expounded, that matters of record must be avoided by matters of record, &c. though they may be done in another Court. And therefore the Parliament in *England* being a higher Court of record than the Parliament of *Ireland*, and which hath power over them, as hath been proved, may well make Laws for *Ireland*, and repeal statutes by them made, and this according to natural equity, with which this rule fully agrees.

The Author's 5th inconvenience, that the Government of *England* and *Ireland* is as well political as royal, and the Laws thereof are grounded upon a parity of reason, and legal policy,

policy, and it stands not with the rule of reason and political Government, that the liberties, lives, and estates of those of *Ireland*, and their posterities, should be bound by statutes made in *England*, whereunto they are no ways parties or privies. For by the rules of reason and politic Government, to all Statute Laws, which bind the whole Common Wealth, all the members thereof are to give their assent (*viz.*) the King, Peers, and Commons.

To which I answer, that it is true, that a statute doth not bind without the assent of King, Lords, and Commons; but I further answer, that it stands with the rules of reason, and politic Government, that the liberties, lives, and estates, of those in *Ireland* should be bound by statutes made in *England*, because they are members of that Commonwealth, and parties to the Laws made there; else how comes it to pass, that in so many ages, and so many Kings Reigns heretofore, they have been bound by the Laws made only in *England*, and the statute of 28. *Hen. 8.* Chap. 19. in *Ireland*, saith, that they are members belonging to the Crown of *England*, and therefore subject to the Laws and Government thereof. And whereas the Author tells us (which is granted him) that to have an act made there must be the assent of the King, Lords, and Commons, and therefore, saith he, that in the 27. *Hen. 8.* Chap. 26. when *Wales* was united by Act of Parliament to be a member and part of the Realm of *England*, and inheritable to the Laws thereof, it was thought reasonable, and so enacted in that Parliament, that every County should have one Knight, and every Borough one Burgeses to have voices in Parliament, and that the like was made for the County Palatine of *Chester* to send Knights and Burgeses. Yet still I must ask him, what he infers from thence? If it be any thing to the purpose it must be, that therefore without sending of Knights, and Burgeses to Parliament, *Wales* and *Cheshire* could not be bound, and from thence draw the like consequence for *Ireland*, otherwise he proves nothing. But these precedents of *Wales* and *Cheshire* prove directly contrary to what he would have. For it appears plainly, that many territories and counties were bound by the Parliament of *England*, which neither sent Knights nor Burgeses thither, as *Wales* itself. For by the statute of the 4th of *Hen. 4.* chap. 33. it was enacted, that the garrisons and walled towns in *Wales*

be stored sufficiently of valiant *English* persons, strangers to the Seigniories where the castles be set; and chap. 27. that no waster, rhimer, minstrell, or vagabond be in any ways susteined in the land of *Wales* to make commotions; and in the same year chap. 28. that no congregations be made or suffered to be made by the *Welsh* in any place of *Wales* to make or take any council, but for evident cause, and by licence of the chief Officer of the same Seigniorie upon pain of imprisonment, and to make fine and ransom at the King's will. By the statute of the 25th of *Hen. 6.* Chap. sole, grants made of markets, &c. to any *Welchman* were made void. And by the statute of the 27th of *Hen. 8.* chap. 26. (by the Author himself cited,) it appears, that *Wales* at that time was not made a member of *England*, for as the Author saith, or the statute saith, that the principality of *Wales* is justly and righteously, and ever hath been incorporated, united, and subject to, and under the temporal Crown of that realm, and a very member and joint of the same; and in *Coke's 7th Rep. fol. 21.* it is said, that since the 12th of *Edw. 1.* *Wales* is parcel of the body of *England*; therefore before this Act *Wales* was a member of *England*, and bound by the statutes made there, as appears by the former recited statutes concerning *Wales*, yet had neither Knights nor Burgeses in the Parliaments of *England*. So likewise the County Palatine of *Chester* was bound by the Acts of Parliament of *England*, before they had power or did send Knights or Burgeses to the Parliament, as appears by the expresse words of the Act of the 34th of *Hen. 8.* by him cited, which gave them power to send them.

From all which it is evident, that Acts of Parliament of *England* did bind Dominions, as *Wales*, and County Palatines, as *Chester*, and that they were not such privies or parties as did send Knights or Burgeses thither. But as great a reason might have been alledged, that they ought to have been freed from being bound by the Parliament of *England*, as the Author would have *Ireland* to be. And therefore I conclude, that it is necessary to every statute, that shall bind the Common Wealth, to have the Assent of the King, Lords, and Commons; so it is not necessary to have Knights and Burgeses from every Seigniorie, Dominion, or County; but the assent of the three estates in Parliament there met together

together shall bind all the members of the Crown of *England*, and all others who are subject to their power.

The Author's sixth inconvenience is, that it is inconsistent with the dignity, power, and jurisdiction of the High Court of Parliament, that the same should be subordinate to the Parliament of another kingdom. For the Court of Parliament is *Curia altissima & suprema*, and by the laws of *England* and *Ireland* hath a double capacity of jurisdiction, the one ordinary of judicature, the other supreme and legislative, and therefore being supreme and legislative cannot be subordinate to the controul of any other power.

To which I answer, that it is not inconsistent with the power of the Parliament of *Ireland* to be under the controul of the power of the Parliament of *England*. For although the Parliament of *Ireland* be *Curia suprema et altissima*, having respect only to *Ireland*, yet as *Ireland* hath relation to *England*, and as it is considered as a member of the Crown of *England*, and subject to the power thereof, it is not *Curia suprema*, nor is their legislative power absolute, but under the controul of the Parliament of *England*. We may call the King's Bench in *Ireland* *Curia suprema* for matters of law in the course of ordinary justice, from whence there is no appeal there in *Ireland*, if the Parliament sits not: But if we consider it as it has relation to the King's Bench in *England*, who have power over that Court, and over the proceedings and judgments therein, it is not the supreme Court of ordinary justice; and the same we may truly say of the Parliament of *Ireland*.

And whereas the Author saith, that though the People of *England*, *Scotland*, and *Ireland* are subjects to the King, yet it is *respectu diversorum*, — in divers respects, — and each kingdom hath its several Parliaments, and several laws; and therefore it doth not follow, that the Parliament of one kingdom should be subordinate to another. For then the Parliament of *Scotland* should be subordinate to the Parliament of *England*, which never was. Neither did the *French*, when the greatest part of *France* in the time of *Hen. 6.* was subject to the King of *England*, ever acknowledge themselves to be subject to the Parliament of *England*.

To this it is said, that *Scotland* and *Ireland* in this case cannot be compared together, nor any argument framed, that because *Scotland* is not subject to the Parliament of *Eng-*

land, therefore *Ireland* is not. For *Scotland* was never subject to the Parliament of *England*, because it was never united to the Crown of *England*, nor was ever subject to the Dominion and Government of *England*: it was never conquered by *England*, nor received laws from them; but was always a distinct and separate kingdom in all respects, and governed only by their own proper laws, and not by the Common laws of *England*. But the direct contrary is of *Ireland*, which is a kingdom united to the Crown of *England*, and a member of it, which from time to time hath received laws from it, and whose laws are generally the same with the laws of *England*, and hath still been bound by them, and by the laws there made; and therefore a wide difference between it and *Scotland*. And this is no new coined difference, but the same which hath been artiently taken, and is alledged by Justice *Moile* in the 7th of *Edw.* 4. where, saith he, a protection of a Voyage Royal into *Ireland* shall not be allowed; for that it is within the jurisdiction of this realm; but otherwise, saith he, it is of *Scotland*. And as for the parts of *France*, which the Kings of *England* enjoyed, whether they did acknowledge themselves to be subordinate to the Parliament of *England*, under correction, I think it is not so suddenly to be determined, as the Author would have it. We find divers Acts of Parliament, as is before remembered, for *Calais*. By the whole Court in the 21st of *Hen.* 7. fol. 32. b. an attachment lies against the Mayor of *Calais* for a contempt in not obeying the King's writ granted out of Chancery, and returnable into the King's Bench, and that a writ of Error returnable in the King's Bench lies of a judgment given in *Calais*; and in the 5th of *Hen.* 8. chap. 1. an Act was made in *England* appointing a means how debts, &c. in *Tournay* and *Terwin* due by them of those places to others, and prescribes the ways to be used by the Officers of *Tournay* for recovery of them; which could not be done by the Parliament of *England*, if they had no power over them. But admit they made no such acknowledgment (which whether they did or no I believe the Author knows not) yet the Kings of *England*, besides their title by conquest, had another good title to them, and might make use of it, and suffer them to enjoy their laws, by which they were formerly governed, for the better quieting, contenting, and settling of these people; and

St. John's
Argument
before cited
62, 63.

and therefore no way to be compared to *Ireland*, which had their laws given them by the Parliament of *England*, even from the conquest, by which they were governed, and which was always accounted a member of *England*, which no part of *France* ever was.

After the Author hath done with his inconveniencies, he raiseth another objection, which might be made against his opinion, which he saith is more probable than any of the former, and so I think it will prove, and that he saith is upon a branch of the statute of the 25th of *Hen. 8.* chap. 20. in *England*, concerning the electing of Archbishops, &c. which is, that at every avoidance of any Archbishop, &c. within *England*, or any of the King's Dominions, the King may grant to the Prior and Convent, or Dean and Chapter, where the See is void, a licence under the great Seal, as of old times hath been accustomed, to proceed to the election of an Archbishop, &c. of the See so void, with a letter missive containing the name of the Person which they shall elect; by virtue of which licence they, to whom such licence and letter missive shall be directed, shall in due form chuse the said Person named in the said letter missive to the office of an Archbishop, &c. and none other; which Act, saith he, was never confirmed in *Ireland* by any Act of Parliament, and yet *Fitz-Herbert* saith, that if a Bishoprick in *Ireland* is void, they sue to the King of *England* to go to the election of another, and after election made they must have his royal assent upon certificate thereof made to the King, and upon that a writ shall be directed out of the Chancery in *England* to the Chief Justice of *Ireland*, commanding him to take the Fealty of the Bishop, and restore him his Temporalities, which writs are made of course in the King's name; but the King doth name the Bishop both there and in *England*, and then the Chapter shall chuse him whom the King names. Whereupon, saith the Author, it may be objected, that a statute made in *England* is binding in *Ireland* without any approbation of the Parliament there. To which he answers, that this statute consists of several parts; first, of the King's right and prerogative by the ancient Common Law. Secondly, an advice how the King may use this prerogative, for that the words are not compulsive, that the King shall grant a *Conge de eslier*, but that the King may grant such a writ with a letter missive; and

after a discourse made by him of the King's antient right to Bishopricks, and how he may give them by his antient right, he concludes, that King *Henry* the 8th by his antient title and royal prerogative, notwithstanding this statute of the 25th of *Hen.* 8. might confer Bishopricks by his letters patent without any such *Conge de eslier*, as is mentioned in the said statute; for it was in his election to use the form prescribed in the statute, or to use his antient prerogative.

To which it is shortly said, That we shall not dispute whether the Act shall bind the King to grant Bishopricks according to the said limitation; for upon this case, which the Author puts, the question is not, whether the King may grant Bishopricks either according to the antient Common Law and his prerogative, or whether he be bound by vertue of the statute, and according to the form therein prescribed to grant Bishopricks; but whether he did in truth grant them according to the order prescribed in this Act. For if he did, then he makes his election to do it by vertue of this Act. Now the Author confesseth, that this Act was never approved in *Ireland* by Parliament, and yet, in vertue thereof Bishopricks were granted in *Ireland*, which was a different way both from the donation of them by the King's antient title and prerogative by the Common Law, and from the electing of such whom the Dean and Chapter should please to chuse, which by usurpation upon the King's antient rights they had formerly done. For by this Act they ought to elect him who is named in the letter missive, and no other; and therefore, the order appointed by this Act for the election of Bishops being used in *Ireland* according to this statute, and the Bishops being made in *Ireland* according to the form prescribed therein, it must of necessity follow, that this Act of the 25th of *Hen.* 8. was in force in *Ireland* without any confirmation of it there, which the Author confesseth was never done: and therefore, by the same reason other Acts made in *England* may be of force in *Ireland* without any confirmation of them by Parliament there. And I think no Man could have cited a case against the Author's opinion more fully and home to the case in question, than this his own case is, to which he gives no satisfactory answer, but tells us what the King by the Common Law may do, of which we doubt no more than himself doth.

After

After the Author hath answered the objections raised by himself, he saith, that upon serious consideration of all that has been said, three considerable questions may be moved.—First, Whether upon the conquest made by King *Henry 2.* immediately *ipso facto* the Kingdom of *Ireland* was inseparably annexed to *England*, or subordinate to the jurisdiction of that Parliament or not.—This question, he saith, may receive this answer.

That *Ireland*, being a Christian Kingdom, the laws thereof did continue till such time as the Conqueror should establish others, or some other form of Government therein, which was not done till the 12th of King *John*, which was thirty eight years after the conquest, during which time the antient laws of *Ireland* continuing, it is manifest that the laws of *England* had not any footing there; and therefore *Ireland* during that time could not be subordinate to *England*, nor could the Parliament of *England* extend their jurisdiction into *Ireland*, all which may be proved out of *Calvin's* case.

If the Author's answer should be admitted for truth, then let it be observed what will follow of it. For he saith before, that if a King conquers a Christian kingdom, the Conqueror may alter the laws thereof, but until he doth, the antient laws of the kingdom remain. But if a King hath a kingdom by descent, there by the laws of that kingdom he doth inherit, and therefore cannot change those laws without consent of Parliament; whence it must needs follow, that for thirty eight years after the conquest the *Brehon* law, which was the law of *Ireland*, was the only law whereby *Ireland* was governed, which the Author seems to affirm. For all that time, saith he, the antient laws continuing, the laws of *England* had not any footing in *Ireland* till King *John Anno 12^o. Regni* gave them the laws of *England*.

Now *Coke* in *Calvin's* case fol. 17. b. saith, that there had been two descents of *Ireland*, one from *Hen. 2.* to King *Richard*; which being granted, as the truth is, all the Author's discourse is to little purpose; for then *Ireland* was not separated from *England* by the grant of King *Henry* the 2d. to King *John*, and another from King *Richard* to King *John* before the alteration of the laws; which if it be admitted, how then could King *John* alter the laws, which were there in force before, seeing it was a Christian kingdom,
and

and enjoyed its laws for two descents. And if, on the other side, as the Author would have it, King *John* came to the kingdom by purchase, and by the grant of his Father, if the *Irish* laws were then in force, and no alteration made in them by *Hen. 2.* it must follow, that King *John* must take the kingdom as it was given him, which was then subject to, and governed, as the Author affirms, by the *Brehon Law*; and how could King *John* then alter that law? But *Coke* is not any way to be lessened of the honour due to his memory, or the authority of his opinion in matter of law to be the less regarded for his mistaking in this particular of the time of the altering of the laws in *Ireland*, it being no error of his judgment in law by the not knowing of the truth of the matter of fact of a thing done in another kingdom, whereof, it seems, he had not notice; and therefore, setting his opinion aside, for the clearing of this, if we consider how wise a Prince *Hen. 2.* was, we cannot well conceive, that he would leave *Ireland* after he had conquered it without any laws given to them by which they should be governed, and suffer them to be ruled by the *Brehon Law*, which the statute of *Kilkenny* calls a *leud custom*. Nor is it to be imagined, if we consider the great multitudes of the *English* that came over into *Ireland*, and that were born there by the *English* in thirty eight years space after the conquest, in which time, and soon after, the greatest part of the conquest was made in all parts of *Ireland*, that they should have no laws to govern them by; or is it almost possible, that a kingdom should be without laws all that time, or is there any probability, that the *English* would receive the laws of the conquered uncivil people, and subject themselves to their *Brehon* barbarous Laws; and therefore we may well conclude, that during the first thirty eight years they of *Ireland* either repaired into *England* for the deciding their controversies, which if it be said, it must then follow, that thereby they were subject to the Government of *England*, or that King *Hen. 2.* did alter the *Irish* laws, and gave them the laws of *England* to be governed by in *Ireland*, which that he did is apparent by what follows. — By the grants made to *Fitz-Stephens* and *Cogan*, cited out of *Hoveden*, and before mentioned, King *Hen. 2.* reserved sixty Knights fees, and in the grant made to *Herbert* sixty, and in that to *Hugh de Lacy* fifty; which reservations are strong arguments

arguments that *Hen. 2.* gave the *English* laws to them of *Ireland*: For there were no such reservations ever heard of before among the *Irish*, who were governed only by the *Brehon* law, by which they held their lands in a course of *Tanistry*, ^(l) but to this reservation of *Hen. 2.* there are incident ^(m) wardship, marriage, relief, ayd for making his son a Knight, and for marriage of his Daughter, &c. ^(l) *Davis's Reports, cases of Tanistry and Gavel-kind.* Now it is not possible that the King should have these incidents, which by this reservation the law of *England* gives ^(m) *Co. 1st. Inst. fol. 76.* him, if the laws had not likewise appointed him a means to come by them, which of necessity must be by the course appointed by law in his Courts; and therefore it must necessarily follow, that there were then the laws of *England*, and Courts for the execution of those laws, and bringing in those profits to him, erected by him, otherwise his reservations had been idle and fruitless. But we may be well assured, that he, that had such care to make such reservations so profitable for himself according to the laws of *England*, would also have the same care to provide means to have the profit and benefit of the same brought to him by the same laws.

And that the laws of *England* were brought into *Ireland* immediately after the conquest by *Hen. 2.* may be gathered out of the grants made by *Richard*, Earl of *Stronhow*, who being Governor here under *Hen. 2.* granted land according to the laws of *England*, and reserved *English* tenures thereupon, as by the ensuing Record appears, which we may find in the forenamed Roll of *Edw. 3.* in the Rolls Office, intituled, *Antiquissimæ literæ patentes et Commissiones*, viz.

‘ Comes *Richardus*, Vices Domini Regis *Angliæ* in *Hiberniâ* agens, omnibus, &c. Sciatis me dedisse & concessisse, ex parte Domini Regis *Angliæ*, *Waltero de Riddlesford Urien*, cum totis pertinentiis, &c. istas terras habebit pro fædo unius Militis sibi et hæredibus suis de Domino Rege *Angliæ*, et hæredibus suis, &c.’ (and after granting him divers

Earl Richard, Viceroy of the King of *England* in *Ireland*, to all, &c. Know ye, that I have, on the part of my Lord, the King of *England*, given and granted to *Walter de Riddlesford Urien*, with all its appurtenances, &c. which lands he shall hold by one Knight’s fee to him and his heirs of the King of *England*, and his heirs, &c. (and after granting him divers

divers other lands, he saith,) To
 ' tenendum & habendum in
 ' fædo et hæreditate per liber-
 ' um servitium trium Militum
 ' Dublin faciendum, &c.

divers other lands he saith) To
 have and to hold in fee and in-
 heritance by the free service of
 three Knights to be done at
 Dublin, &c.

Now it is manifest, that *Strongbow* died in 1176, in the 22d. year of *Hen. 2d.* and that *Hen. 2.* conquered *Ireland* in the 17th year of his reign; so that there being but five years at most between the conquest and *Strongbow's* death, and this grant being made by him before his death, therefore the laws of *England* were brought into *Ireland* presently after the conquest, and also there executed. For we

(n) *Vincent's*
 Catalogue
 of Nobility.
 p. 412.

find that *Strongbow's* daughter and heir was in ward (n) divers years to *Hen. 2.* and by him given in marriage to *William Marshall* the elder.

In the same Roll it appears by a grant made by King *John* before he was King, beginning, *Johannes, filius Domini Regis Angliæ, et Dominus Hiberniæ*,—*John* Son of the King of *England*, and Lord of *Ireland*, that he grants to the Abby of *Lenton* the lands of *Ballybane*, to be holden in *Frankalmoigne*, and likewise to *Robert de St. Michael* the lands of *Dangen*, and other lands,

' Quas idem *Robertus* habuit
 ' de dono Domini *Henrici*, Pa-
 ' tris mei, cum Soch, Sach,
 ' & Toll, et Them, & Infang-
 ' thef, et judicio aquæ & ferri,
 ' et duello, & fossa et furcis,
 ' retentis ad opus meum dona-
 ' tionibus Episcopatum, &c.
 ' et placitis et querelis, quæ
 ' ad Regis Coronam pertinent,
 ' &c.'

The lands of *Dangen*, and o-
 ther lands, which the said *Ro-*
bert held of the gift of my fa-
 ther, *Henry*, together with
 Soch, Sach, and Toll, and
 Them, and Infangthef, and the
 judgment of Water and Iron,
 and tryal by combat, and the
 jurisdiction of the pit and the
 gallows, retaining to my own
 use the donation of Bishopricks,
 &c. and Pleas which belong to
 the King's Crown, &c.

To this grant *John de Coursey* is one of the witnesses; therefore it must needs be before *John* was King, as by the stile also appears. So that it is plain that the laws of *England* were in *Ireland* long before *John* was King, and pleas of the

the Crown there also at this time in use; for else why should *John* reserve those to his own use, if no such had been there?

We find in that Roll the like grant to *Walter Riddlesford*, beginning,—*Johannes, filius Domini Regis Angliæ, & Domini Hiberniæ.*—*John*, Son of the King of *England*, and Lord of *Ireland*.—wherein he grants him divers lands, and confirms to him other lands,—quas Comes *Richardus*, filius Comitiss, ei dedit.—Which Earl *Richard*, Son of the Earl, gave to him—and grants him a market.

‘ Cum Soc, Sac, et Tol, et
 ‘ Them, Infangthef, et judicio
 ‘ aquæ & ferri, & duello, &
 ‘ fossa et furcis, & cum wreeco
 ‘ maris, & omnibus libertati-
 ‘ bus, &c. exceptis Croceis et
 ‘ Donationibus Episcopatum,
 ‘ &c. et placitis, & querelis,
 ‘ quæ ad Coronam Regiam
 ‘ spectant, quæ ad usum meum
 ‘ proprium retinui.’

Grants him a Market, with
 Soc, Sac, Toll, and Them, In-
 fangthef, and the judgment of
 water and iron, and combat,
 and the jurisdiction of the Pit
 and the Gallows, with wreck
 of sea, and all liberties, &c.
 except the crosses and donati-
 ons of Bishopricks, &c. and
 pleas and quedeles belonging to
 the King's Crown, which I
 have reserved to my own use.*

* Soch, is an antient word often occurring in old Grants, and signifies the power of holding a Court, with Jurisdiction over the Lord's Socagers, or Tenants, from whence the Tenure is called Socage Tenure.——Sach is a royalty or privilege of holding a Plea of Trespass within a Manor.——Toll, is a privilege as well to take as to be free from Toll or Custom within a Manor.——Them or Teame is a royalty granted to a Lord of a Manor for the holding Plea over his Bond-men, Neifs, or Villains in his Court.——Infangthef, is a Jurisdiction granted to some Lords of Manors of judging a Thief taken within the Manor.——Judgment of Water is called Water Ordeal, or a purgation by Water either hot or cold, and the purgation by Iron was either stepping over 9 Plow-shares blind-folded, or by holding a piece of red-hot Iron in the hands, in either of which cases, if the party accused escaped unburnt, he was esteemed innocent. See the Antiquities of *Ireland*, p. 154. for a fuller Exposition of these Terms, and the divers manners of practising them; where also the Trial by Combat is given at large.——The Jurisdiction of the Pit and the Gallows was a privilege granted to certain Lords of Manors of punishing Felony, the men by hanging, and the women by drowning.——Wreck of Sea, was a Grant made to the Lords of Manors of Goods cast up on their Lands by Ship-wreck.——Crocea, or Cross-Lands, were such where Bishops and Abbots had large Jurisdictions, in which nevertheless the King had a Sheriff and other Ministers distinct from those of the County at large. See also the Antiquities p. 32. I have given these short Expositions as helps to the *English* Reader.

It

It appears by the grant made by King *Hen. 2.* to the Citizens of *Dublin* (which the Author also mentions) that he granted, thus, viz.

‘ Hominibus meis de *Bris-*
‘ *torwe* Civitatem meam de
‘ *Duvelinâ* ad inhabitandum;
‘ quare volo & firmiter præci-
‘ pio, quod ipsi eam inhabi-
‘ tent, & teneant illam de hæ-
‘ redibus meis benè ac in pace,
‘ liberè, integrè, plenariè, ac
‘ honorificè, cum omnibus li-
‘ bertatibus et liberis consue-
‘ tudinibus, quas homines de
‘ *Brisfowe* habent apud *Bris-*
‘ *toam*, et per totam terram
‘ meam, &c’.

I grant to my subjects of *Bristol* my City of *Dublin* to inhabit: Wherefore, I will, and strictly command, that they shall inhabit and hold it of me and my heirs, well and in peace, freely, quietly, intirely, fully, and honourably, with all the liberties and free Customs, which the men of *Bristol* have at *Bristol*, and through all my Land, &c.

By this Charter there is a tenure reserved to the King and his heirs (therefore *Ireland* was not absolutely granted to *John*) which, if it had not been reserved, the law of *England* itself makes. Here is a grant also of such liberties and free Customs as the Men of *Brisfow* have. And I think it will not be denied, but the liberties and free Customs of *Brisfow* generally (tho’ in some particular Customs they may differ) are the laws of *England*, and these being granted to them of *Dublin*, the laws of *England* must of necessity be granted to them.

In the reign of King *Richard* the first. which was long before the 12th of King *John*, the same *John* by his letters dated at *London* 16th of *May* 3d *Richard* 1st. (which grant the Author mentions) did grant,

‘ Omnibus meis de *Dublin*,
‘ tam extra muros quam infra
‘ manentibus, usque ad metas
‘ villæ, quod habeant metas
‘ sicut perambulatae fuerant per
‘ Sacramentum proborum Vi-
‘ rorum de Civitate illa per
‘ præceptum Regis *Henrici*,
‘ Patris nostri, &c.

I give and grant to all my Citizens of *Dublin*, as well without as within the walls, to the bounds of the City, that they should enjoy their boundaries as they were perambulated, by the oaths of the good men of that City, by the precept of King *Henry*, my Father, &c.

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In that Charter he likewise grants,

* Quod nullus Civis faciat duellum in Civitate de aliquo Appello, quod quisquam versus eum facere possit, sed purgabit se per sacramentum 40 hominum ipsius Civitatis, qui legales sunt; quod sint quieti de Theolonio, lastagio, et passagio, et pontagio, per totam terram et potestatem meam; et quod Hundredum tantum semel teneatur in septimanâ; et quod possint maritare se, et filios, & filias, et viduas, sine licentiâ Dominorum suorum; et quod nullus Dominorum suorum propter forenses terras habeat Custodiam vel Donationem filiorum vel filiarum suarum, aut viduarum, sed tantum Custodiam tenementorum suorum, quæ sunt de sædo suo, donec ætatem habent.

That no Citizen shall wage combat within the City upon any Appeal that any Person should bring against him, but shall purge himself by the oaths of 40 legal men of the said City; that they be acquitted of Toll, † Lastage, and Passage and Pontage, through all my Land, and wherever I have power; and that their Hundred Court shall be held only once a week; and that they may marry themselves, their Sons and Daughters, and Widows, without licence from their Lords; and that none of their Lords, upon account of their holding foreign Lands [*i. e.* Lands without the City limits,] shall have the Wardship or Donation of their Sons, Daughters, or Widows, but only the Wardship of the tenements, which belong to their fee, till they come of age.

That they should hold their land within their Mears *per liberum burgagium*,—by free Burgage—with many other liberties and privileges in that Charter mentioned, concerning Replevins, Recognizances, &c. whereby it appears, that the laws of *England* had footing in *Ireland* long before the 12th of King *John*. For in the 3d of *Rich. 1st*, Appeals, Hundreds, Tolls, Lastage, &c. Tenures, Wardships, Replevins, and many other parts of the Common Law were

† Lastage is a Custom exacted in Fairs and Markets, the Freedom from which is called Lastage.——As Passage and Pontage is an Exemption from Tolls or Duties to be paid for passing through places, or over bridges, where such Tolls were exacted.——Marriage was the free disposal of Heirs in Marriage, which the Kings of *England* had while the Tenures of Knight's service subsisted.——Burgage Tenure is a kind of Soccage Tenure, whereby the Burghers of corporate Towns held their Lands at a certain Rent.

in

in use there in *Ireland*, and from many of which the Citizens of *Dublin* got their grant of Exemption; and therefore of necessity the Common Law of *England* must be given by *Hen. 2.* they being there so well acquainted with it in less than three years after his death, and within that time procured such freedoms from them.

In tur. *Berm.*
But it is not
there now.

In the Patent Roll of 2d *Hen. 5.* we find the Grant made by *Hen. 2.* to *Hugh de Lacy* enrolled, and it is *verbatim* cited in the Annotations upon *Spencer's* view of *Ireland*, p. 124. In that Roll also there is an *Inspeximus* of a Grant to *Roger de Mortuomari*, Earl of *March*, and *Joan* his Wife, of the liberties of *Trim*, which were formerly forfeited to the King by *Theobald de Verdon*, in the beginning of which Grant there is this recital.

Edw. &c. ' Sciatis, quod
' cum Dominus Rex *Henricus*,
' quondam Rex *Angliæ*, Pro-
' genitor noster, dudum per
' Chartam suam dedisset &
' concessisset *Hugoni de Lacy*,
' pro servitio suo, terram de
' *Midia*, cum omnibus perti-
' nentiis suis, tenendam et ha-
' bendam de ipso Progenitore
' nostro, et hæredibus suis, si-
' cut *Murchardus Hua Melach-*
' *lin* melius eam tenuit, vel ali-
' quis alius ante eum, vel pos-
' tea, cum omnibus libertati-
' bus et liberis consuetudinibus,
' quas idem Progenitor noster
' ibi habuit, vel habere potuit,
' seu illi dare potuit, prout in
' chartâ prædictâ plenius con-
' tinetur. Ac idem *Hugo de*
' *Lacy*, & Hæredes sui succes-
' sive, virtute donationis & con-
' cessionis prædictæ, infra ter-
' ram prædictam habuerunt
' omnimodam jurisdictionem, et
' cognitionem omnium Placito-
' rum, tam de incendio, The-
' sauro invento, raptu, & for-
' stallo,

Edward. &c. Know ye, that
whereas King *Henry*, formerly
King of *England*, our Progeni-
tor, long since gave and grant-
ed by his Charter to *Hugh de*
Lacy, for his services, the
Land of *Meath*, with all its
Appurtenances, To Have and
to Hold of our said Progenitor,
and his heirs, in the same con-
dition as *Murrogh O-Melachlin*
well held them, or any before
or after him, with all the Li-
berties and free Customs, which
our said Progenitor had or could
have had therein, or could
grant to him, as in the said
Charter is more fully contained.
And the said *Hugh de Lacy*,
and his Heirs successively, by
virtue of the said Donation and
Grant, held within the said
Land all kinds of Jurisdiction,
and Cognizance of all Pleas,
as well of burnings, as of trea-
sure-trove, Rapes, and Fore-
stalling (*i. e.* the offence of
buying up Provisions coming to
a Market, by which the price

is

‘stallo, quam aliorum placito- is enhanced) as of all other
 ‘rum quorumcunque, infra ter- Pleas whatsoever arising within
 ‘ram prædictam emergentium, the said Land, and a Chancery
 ‘et Cancellariam, & Scaccari- and Exchequer, and all other
 ‘um, et omnia alia ad hujus- things to the said Offices be-
 ‘modi Officia pertinentia, nec- longing, as also his proper Seals
 ‘non propria sigilla sua ad ea appropriated to the said Offices,
 ‘dem Officia deputata, &c. &c.

Now, if any Man should ask what King *Hen. 2d* gave with the lands of *Meath* to *Hugh de Lacy*, when he gave him all the Liberties and free Customs, which himself had or could give, the answer is plain, that he gave him power to exercise under him as a *Regulus*, or petty Prince, the laws of *England*, which *Henry* himself had given to them of *Meath*. For, saith the Grant, by vertue of this Gift (which was—*de libertatibus & liberis consuetudinibus*.—Of Liberties and free Customs—) he had with that Land all Jurisdiction and consuance of all Pleas, and had his Court of Chancery and Exchequer, &c. And this Jurisdiction (saith the Grant) *Hugh de Lacy* himself (who was slain above 2 years before *Hen. 2d.* died) and his Heirs successively had; therefore, it is apparent, that the laws of *England* were given to *Ireland* by *Henry 2d.*

This also appears by the aforementioned Record of 6. *Edw. 2d.* in the case of the Prior of *Dundalk*, where the Jury found, that the Ancestors of *Theobald de Verdun* cito post Conquestum—soon after the Conquest—did make divers Burgesses, and enfeof them of divers Burgages, rendering 12d. out of every Burgage for all services: which being done—cito post conquestum—soon after the conquest,—must needs be long before the 12th of King *John*, (tho’ the Author saith, that before that time the laws of *England* had no footing in *Ireland*) and also by *Agnes de Valentia’s* case in 33d *Edw. 1.* before also cited, where he saith, that—a tempore conquestus—from the time of the conquest—the King’s Writs were directed to the Justices of *Ireland* out of his Chancery of *England* to do justice to the complainants, and that such Pleas have hitherto been held in form of a Commission of *Oyer and Terminer*, which the Defendant, Sir *John Fitz-Thomas*, doth not deny; but saith, that it was never adjudged in that Land, that any should an-

swer to such Writs of suggestion out of the Chancery of *England*, if the Defendants did challenge them; therefore, if the King's Writs out of *England* were from the time of the conquest sent into *Ireland* to hear and determine causes, certainly the laws of *England* were given by *Hen. 2d.* to *Ireland*, and there by his Officers executed long before King *John's* time. Whence also, as a necessary consequence, will follow, that *Hen. 2d* made Counties, Sheriffs, and other Officers; for otherwise, how could it be possible that he could have any benefit by his reservations in *Capite*? How could any part almost of the law be executed? What should *Hugh de Lacy* have done with his Chancery, Exchequer, his Seals, or any part of his Jurisdiction, if there had not been Officers to execute the same, and the directions and commands under these Seals?

And that there were Sheriffs and other Ministers of Justice in *Ireland* in *Hen. 2d's* time we may collect out of a Patent granted by *Henry 2d* of lands in *Ireland*, which follows, and is enrolled in the said Roll of *Edw. 3d.* in the Rolls Office, intituled, *Antiquissimæ literæ patentes & Commissiones.*

‘ *Henricus*, Dei Gratia, Rex
 ‘ *Angliæ*, dux *Normanniæ*, &
 ‘ Comes *Andegaviæ*, Archie-
 ‘ piscopis, Vicecomitibus, Mi-
 ‘ nistris, Justiciariis, &c. salu-
 ‘ tem. Sciatis, me dedisse &
 ‘ concessisse, et præsentî Chartâ
 ‘ meâ confirmasse, *Nicholao de*
 ‘ *Benchi* duas Carucas terras
 ‘ de Sanganat, cum pertinen-
 ‘ tiis, & duas Carucas de
 ‘ *Balligiliregio*, cum pertinen-
 ‘ tiis, et unam Carucatam de
 ‘ *Chelchis* ————— ad Caput
 ‘ pontis, ad hospitia habenda,
 ‘ sibi et hæredibus suis tenenda
 ‘ de me et hæredibus meis per
 ‘ servitium dimidii militis apud
 ‘ civitatem meam *Dublin* fa-
 ‘ ciendum. Preterea concedo
 ‘ ei et confirmo ipsi, & hæredi-
 ‘ bus

Henry, by the Grace of
 God, King of *England*, Duke
 of *Normandy*, and Earl of *An-*
jou, to his Archbishops, She-
 riffs, Ministers, Justices, &c.
 greeting. Know ye, that I
 have given and granted, and
 by my present Charter confirm-
 ed to *Nicholas de Benchi* the
 two Carucates of Land of *San-*
ganat, with the Appurtenances,
 and the two Carucates of *Balli-*
giliregio, with the Appurten-
 ances, and one Carucate of
Chelchis ————— at the head
 of the bridge, to keep an Inn
 of Entertainment by him and
 his heirs, to hold of me and
 my heirs by half a Knight's
 service, to be done at my City
 of *Dublin*. Besides, I grant and
 confirm

* bus suis, villam, quæ appella-
 * tur *Rathdibille*, cum omni-
 * bus pertinentiis suis, et infra
 * pertinentia centum et quin-
 * quaginta Acres terræ Arra-
 * bilis, et unum hospitium li-
 * berum in *Kilduram*, quæ fuit
 * *Malmarini*, et unum apud
 * *Fernes*, & unum apud *Weis-*
 * *ford*, quod Comes *Richardus*,
 * filius Comitis *Gilberti*, rati-
 * onabiliter concessit ei & hære-
 * dibus suis, tenendum per ser-
 * vitium trium Militum, sicut
 * ei concessit, et chartâ suâ
 * confirmavit. Quare volo, et
 * firmiter præcipio, quod præ-
 * dictus *Nicholaus*, & hæredes
 * sui, omnia supradicta habeant
 * & teneant de me, & de *Jo-*
 * *hanne* filio meo, & de hære-
 * dibus nostris, benè, & in pace,
 * libere, & quietè, integrè, &
 * honorificè, in basco et plano,
 * in pratis & pasturis, in Aquis
 * et Molendinis, in vivariis, &
 * stagnis, et piscaturis, in viis et
 * semitis——ad ea perti-
 * nentibus, & cum omnibus li-
 * bertatibus, & liberis consue-
 * tudinibus suis. Teste *Richar-*
 * *do* Archiepiscopo *Cantuarenfi*,
 * *G. Eliensi*, *Johanne Norwi-*
 * *centi* Episcopis, *Humphredo de*
 * *Bobun*, Constabulario, &c.
 * At the end of the Enrollment
 * of this Patent are these words
 * entered, Et Memorandum,
 * quod spatia quæ superius o-
 * missa sunt in scripto, irrotula-
 * tione ista vacua sunt; quia
 * Charta, a quâ ista irrotulatio
 * scripta

confirm to him and his heirs the
 Town called *Rathdebille*, with
 all its Appurtenances, and
 within the said Appurtenances
 an hundred and fifty Acres of
 arable Land, and one free Inn
 in *Kildare*, which belonged to
Malmarini, and one at *Fernes*,
 and one at *Weisford*, which
 Earl *Richard*, Son of Earl *Gil-*
bert, reasonably granted to him
 and his heirs, to hold by the
 service of three Knights, as he
 by his Charter granted and
 confirmed to him. Wherefore
 I will and strictly command,
 that the said *Nicholas* and his
 heirs should have and hold all
 the aforesaid Premisses of me,
 and of my Son *John*, and of
 our heirs, well, and peaceably,
 freely, and quietly, fully, and
 honourably, in Woods and in
 Plains, in Meadows and Pas-
 ture, in Waters and Mills, in
 Ponds and Pools, and Fishings,
 in Ways and Paths——
 belonging to them, and with
 all Liberties and free Customs.
 Witness *Richard*, Archbishop
 of *Canterbury*, *G.* Bishop of
Ely, *John*, Bishop of *Norwich*,
Humphry de Bobun, Constable,
 &c. At the end of the Inroll-
 ment of this Patent are these
 words entered. *Memorandum*,
 that the spaces omitted above
 in the Writing are left blank in
 the Enrollment; because the
 Charter, from whence the En-
 rollment was written, was so
 antient and defaced, that
 O 2 scarce

‘ scripta fuit, erat ita antiqua scarce a Letter of it was to be
 ‘ & fracta, quod nemo poterat read. †
 ‘ vix literam ibidem legere.’

This Patent being made of Land in *Ireland*, and directed, amongst others, to Justices and Sheriffs, certainly there were then such Officers in *Ireland*; for it had been a vain thing to direct it to such Officers as were not in being there. And if it should be objected, that it is directed to the *French* as well as to the *English* and *Irish*, and yet there were none of them there; and therefore so it may be to Sheriffs, though there were none. To this it is answered, that *Henry 2d*, having great territories in *France*, had with him, no doubt, many of the *French*, who served him in his wars; and it might easily be proved, if it were needful, that many *French* upon the Conquest were placed in *Ireland*, from whom many of the old *English* derive their Pedigree; and that the *Normans* were in *Ireland* soon after the Conquest appears in *Cambrensis lib. 2. de expugnatione Hib. Chap. 38, 39.* Therefore it seems there was care taken to direct this Grant to all both to Officers and Sheriffs and Justices, and to all other the King’s Subjects, *English, French, and Irish*, that all may take notice of it. Out of this Patent we may observe, First, That altho’ *Henry 2d* had before this Patent given *Ireland* to his Son *John*, and by this Patent reserved a tenure to him, and his Son, and their Heirs, of part of the lands granted, by which it appears he intended not to exclude himself of the Sovereignty of any part of it, yet of other part of the lands granted he reserves the tenure to

† *N. B.* The inquisitive Reader may be desirous to know how the foregoing Patent of *Hen. 2.* should be enrolled among the Rolls of the 11th of *Edw. 3.* indorsed, *Antiquissima litera patentes.* This seems to be cleared by a Memorandum entered in the Roll of 2d. *Edw. 2.* which says, that all the Chancery Rolls to the year 1300 were destroyed by an accidental Fire in the Abby of *St. Mary’s Dublin* (which was then the Repository of them) except two Rolls of the same year, which were then delivered to *Walter de Thornbury*, Chancellor of *Ireland*, by the King’s Writ. It seems therefore, that these *Antiquissima litera patentes* of *Edw. 3.* were a collection of Letters Patent, which lay in private hands, and were attested from time to time by the proper Officers, and enrolled through necessity, the Originals being destroyed. And I am confirmed in this opinion, because they are a mixture of patents of divers of the preceding Reigns; and this also accounts for the Blanks left in the fore-recited Charter, the same being defaced by time in the hands of the private Proprietor.

himself

himself and his Heirs, without naming of *John*, to be done at his City of *Dublin*. Secondly, that himself only grants those lands, without his Son *John*; therefore it is plain, that he had not given the whole land and the sovereign Power he had in and to *Ireland* wholly to his Son *John*, so as to divest himself of all royal power therein; for then could not he have granted away any part of it, neither is there so much as any likelihood that in those times it was so conceived. For *Cambrensis* in the place before cited calls *Henry* 2d *Summum Principem*, chief Prince, and that he Committed the Government to *John de Coursey*, which was after *John* was in *Ireland*, and called back by his Father. Thirdly, by this likewise it appears, that *Henry* 2d introduced the *English* laws into *Ireland*; for he made grants according to the laws of *England*, and reserved *English* tenures upon them.

Likewise that there were Counties in *Ireland* before the 12th of King *John*, (which is the time the Author limits for the first giving of the Laws of *England* to *Ireland*) is apparent by a grant made by King *John* to the City of *Waterford*, dated at *Marlebridge*, 3^o, *Julii* 7th of his Reign, whereby he grants,

‘ Civibus nostris Civitatis
‘ nostræ *Waterford*, infra muros
‘ dictæ Civitatis manentibus,
‘ totam civitatem nostram de
‘ *Waterford*, cum omnibus per-
‘ tinentiis; et quod prædicti
‘ Cives, et eorum hæredes et
‘ successores in perpetuum ha-
‘ beant metas suas, sicut pro-
‘ batæ fuere per sacramentum
‘ fidelium hominum, (viz.)
‘ duodecim de ipsâ Civitate,
‘ et duodecim extra, per præ-
‘ ceptum Regis *Henrici*, Patris
‘ nostri.’

To our Citizens of our City
of *Waterford*, remaining within
the walls of the said City, all
our said City of *Waterford*, with
all the appurtenances; and that
the said Citizens, and their
Heirs and Successors for ever,
shall enjoy their bounds, as
they were proved by the Oaths
of faithful men, namely, 12 of
the said City, and 12 without
it, by precept of King *Henry*
our Father, &c.

And then he lays out the mears and bounds thereof in that patent, and after he grants, that—*ipsi Cives, et eorum hæredes & successores in perpetuum habeant omnes libertates, et liberas consuetudines subscriptas; Libertates autem quas eis concessimus, sunt, &c.*—That the Citizens, and their

heirs and successors for ever, should have all the Liberties and free Customs underwritten; and the Liberties which we have granted them are these.—And then he recites many priviledges and liberties granted to them concerning the trial in appeals, that it should not be by Duell but by the Oaths of twelve men, concerning the chusing of a Provost every year, and that he should hold Pleas in his hundred of lands and tenements, debts, accounts, and other contracts; that they shall be free from Toll, passage, murage, &c. and many other things concerning wardships, and the having of waiffs, strays, and Felon's goods, Deodands, and many other priviledges and immunities, and, amongst the rest, is this clause,

‘ Concessimus etiam præfatis
 ‘ Civibus, et eorum hæredibus
 ‘ & successoribus in perpetuum,
 ‘ quod nulli Justiciarii nostri
 ‘ Itinerantes, nec alii Justiciarii
 ‘ ad assisas Capiendas in *Comi-*
 ‘ *tatu Waterford*, nec aliquis
 ‘ alius Minister, nec hæredum
 ‘ vel successorum nostrorum, in
 ‘ futuro vexent, aut aliquis
 ‘ eorum vexet, nec venire com-
 ‘ pellent, seu aliquis eorum in
 ‘ futurum venire compellet
 ‘ præfatos Cives, seu eorum ali-
 ‘ quem, hæredes seu successo-
 ‘ res suos, coram eis, seu eo-
 ‘ rum aliquo, extra Civitatem
 ‘ prædictam, tam ad sectam
 ‘ nostram, hæredum seu succes-
 ‘ sorum nostrorum, quam ad
 ‘ sectam quorumcunque que-
 ‘ rentium; sed faciant quicquid
 ‘ ad eos pertinet præfatis civi-
 ‘ bus, et eorum hæredibus et
 ‘ successoribus, infra eandem
 ‘ civitatem, secundum Justi-
 ‘ tiam.’

We have granted also to the said Citizens, and their Heirs and Successors for ever, that none of our Justices Itinerant, nor other Justices for taking assizes in the County of *Waterford*, nor any other Minister of us or our heirs, or successors, or any of them, should for the time to come molest, or oblige the said Citizens, or any of them, their heirs or successors to appear before them, or any of them, without the bounds of the said City, either at the suit of us, our heirs or successors, or at the suit of any other complainants; but that they should do whatever belongs to them to the said Citizens, and their heirs and successors, within the bounds of the said City, according to Justice.

And

And then saith the patent, — *hæc omnia eis concessimus*, &c. — All these things we have granted to them. This patent in a great part of it is only a recital and confirmation of the liberties formerly granted to the Citizens of *Waterford* — (*libertates, antea quas eis concessimus, sunt hæc*) — The liberties which we formerly granted them are these. It appears by it, that long before the 7th year of King *John* they had former grants of these liberties, among which by this grant it appears to be one, that they should not be compelled by the Justices Itinerant, or Justices of Assize, in the County of *Waterford*, or other Minister, to answer before them in any suits, but only within their City; therefore it is evident, that there was the County of *Waterford* before the 7th year of King *John* in *Ireland*, and then King *John* did not in the 12th year of his reign first make these 12 Counties, which the Author before names, of which *Waterford* is one; and that before the 12th of King *John* the Laws of *England* had footing in *Ireland*. For by this Patent of King *John* it is plain, that they had Justices Itinerant, Justices of Assize, and other Ministers of Justice, and the Laws of *England* exercised and executed amongst them, and that these liberties mentioned in this patent were in the said 7th year of King *John* confirmed to them; and therefore they had them granted to them before.

And that the Laws of *England* were given to them of *Ireland* by *Henry* 2d. is testified by *Matthew Paris* (o) in (o) Edit. ult. express words. — *Henricus secundus* (saith he) *apud Lismore* p. 126. *Concilium congregavit, ubi leges Angliæ gratanter ab omnibus sunt receptæ, et juratoriâ Cautione præstitâ confirmatæ* — *Henry* 2d. (says he) assembled a Council at *Lismore*, where the Laws of *England* were willingly received by them all, and (p) were confirmed to them, upon taking their (p) Hist. Oaths; with which *Daniel* in a manner agrees, telling us, Hen. 2. Fol. 83. that *Hen.* 2d. went from *Waterford* to *Dublin*, where he held an assembly of all the subject Kings, with the Lords spiritual and temporal of *Ireland*, for the further ratification of their allegiance, and the ordering and reformation of the state.

We find it also agreed by all our histories of that time, that *Henry* 2d. made a Reformation of Church affairs, and that from thenceforth all divine things should be ordered according to the manner of the Church of *England*, and

confirmed sundry good statutes made in a Synod at *Casbel*, which was called thither by his command; and therefore, doubtless, he would not neglect to provide Laws for the civil Government, but gave them likewise the laws of *England*, as *Matthew Paris* saith, to be governed by, which they willingly received, and swore to obey. And to put it out of doubt that *Hen. 2.* both gave them laws, and also made statutes for their Government, besides what is proved by the former Records, and by what *Matthew Paris* and *Daniel* say, there is an expresse statute in *Ireland*, which will plainly prove in. It is in *Rot. Pat. 2. Rich. 3. Chap. 8.* in these words.

‘ Item. Al requisition del
 ‘ Commons, que l'estature de
 ‘ *Henry Fitz-Emprice* ordeine
 ‘ pur lelection de Gouverneur
 ‘ de *Irland* in cest terre, en as-
 ‘ cun temps quauind l'fortuner
 ‘ de estre void de ascun loyal
 ‘ Gouverneur, per autorite de
 ‘ ceste Parliament soit confirme,
 ‘ ratifie, & adjudge bone et ef-
 ‘ fectual en ley; Et que *Tho.*
 ‘ *Fitz Gerald*, Chancellier d'
 ‘ *Irland*, Sir *Roland Fitz Euf-*
 ‘ *tace*, Tresorier de *Irland*,
 ‘ *Philip Bermingham*, chiefe
 ‘ Justice de chiefe place le Roy
 ‘ d'*Irland*, *Tho. Plunket* Chiete
 ‘ Justice le common Place le
 ‘ Roy in *Irland*, *Oliver Eustace*,
 ‘ Chiefe Baron de Exchequer
 ‘ le Roy in *Irland*, ou son De-
 ‘ putie pour le temps esteant,
 ‘ *Tho. Doudall*, Clerk & Gar-
 ‘ dein de Rowles et Records le
 ‘ Roy de Chancery de *Irland*,
 ‘ *John Estrete*, Serjant le Roy
 ‘ a ses leys in *Irland*, et che-
 ‘ scun d'eux severalment, par
 ‘ autorite de cest Parliament,
 ‘ soient adjudge pleinment en
 ‘ chescun de leur several offi-
 ‘ ces

Also at the request of the
 Commons, that the statute of
Henry Fitz Emprice (i. e. *Hen-*
ry 2d) made for the election of
 a Governor of *Ireland*, when
 it shall happen to be void of any
 lawful Governor, be by the
 authority of this Parliament
 confirmed, ratified, and adjudg-
 ed good and effectual in Law;
 and that *Thomas Fitz Gerald*,
 Chancellor of *Ireland*, Sir *Ro-*
land Fitz Eustace, Treasurer of
Ireland, *Philip Bermingham*,
 Chief Justice of the King's
 Bench of *Ireland*, *Thomas Plun-*
ket, Chief Justice of the Com-
 mon pleas of *Ireland*, *Oliver*
Eustace, Chief Baron of the Ex-
 chequer of *Ireland*, or his De-
 puty for the time being, *Tho-*
mas Doudall, Clerk and keeper
 of the Rolls and Records of the
 King of the Chancery of *Ireland*,
John Estrete, the King's Ser-
 jeant at Law in *Ireland*, and
 every of them, by authority of
 this Parliament be adjudged
 fully to hold severally their se-
 veral Offices for their lives, any
 manner of matter, cause, or
 thing,

ces severalment, a aver & te-
 ner chescun de eux several-
 ment son office pour terme de
 sa vies, ascun maniere, mat-
 ter, cause, ou chose ewe ou
 destre ewe a contraire nient
 obitant. Et que per mesme
 l'autorite il bien luit al eux,
 ou le greinder part de eux,
 come a tous auters maniere
 Persons ou le greinder part de
 eux, que issint severalment a-
 veront & teigneront ascun de
 les dit offices par reason de
 mort de ascun Officer de les
 dit offices, par done desouth les
 tesnoigne de *Gerald Count*
de Kildare en ascun maniere
 come Gouverneur de cest ter-
 res; accorde le tenor, usage,
 & execution del dit statute de
Henrie Fitz Emprice, ove l'
 assent de Nobles de cest terre,
 accordant come elle est spe-
 cifie en mesme statute, sur
 chescun tiel avoidance de es-
 tre ewe de essier un noble Se-
 nieur de estre Gouverneur, et
 eit le Government come Jus-
 tice le *Irland*, ceo de aver et
 enjoyer accordant al auntient
 usage, use et execute dont
 ceo temps. Et que par mes-
 me l'autorite il bien luit a
 chescun tiel Gouverneur issint
 essie a tenir Parliaments, &
 Graundes Counsails, et que
 ils fair que le Leys de ceste
 terre pur le bone publique de
 mesme duement soient exercises
 en le mesme, et oexecutor in
 tout maniere, come per ascun
 maniere Gouverneur de mes-
 me il ad estre fait done et ex-
 ercise, et ce destre adjudge
 libien

thing, had or to be had, to the
 contrary notwithstanding. And
 by the same Authority, that it
 be lawful for them, or the ma-
 jor number of them, as well as
 for all others, or the greater
 number of them, who shall so
 severally hold any of the said
 offices, by reason of the death
 of any Officer, by grant under
 the teste of *Gerald, Earl of*
Kildare, in any manner as Go-
 vernor of this land, according
 to the tenor, usage, and execu-
 tion of the said statute of *Henry*
Fitz Empriss, with the assent
 of the nobles of this land, as is
 specified in the said statute, up-
 on every such avoidance, to
 chuse a noble lord to be Gover-
 nor, and to have the Govern-
 ment as Justice of *Ireland*, to
 hold and enjoy according to the
 antient usage used and execu-
 ted from that time. And by the
 same authority, that it shall be
 lawful for such Governor so
 chosen to hold Parliaments and
 great Councils, and that they
 shall cause the laws to be exe-
 cuted for the weal public of this
 land, as by any other Governor
 has been done and exercised,
 which shall be adjudged as good
 and effectual in law, as if done
 by any other Governor in any
 times passed. Provided that the
 said election be always made
 by the Lords spiritual and tem-
 poral, and the nobles of the said
 land, and provided also, that
 no Parliament do begin only
 once in every year.

By

' sibien et effectuel en leye,
 ' come ascun tiel que ad estre
 ' per ascun maniere Gouver-
 ' neur de ceste terre en ascun
 ' temps passe. Peussint que le
 ' dit election soit fait chescun
 ' fois par le Seigneurs l'Espe-
 ' ritels, et temporels, et de no-
 ' bles del dit terre. Et peris-
 ' sint auxi que nul parliament
 ' soit commence lorsque un fois
 ' per an.'

By this statute it appears, that *Henry 2d* made laws and statutes for *Ireland*; for in the beginning thereof the words are, that the statute of *Henry Fitz-Empress* ordained for the election of Governors, &c. so that by the pointing out of that statute in particular concerning the Government, which they meant to confirm, from other statutes, it is clear that there were other statutes likewise made by him for *Ireland*, which did not concern the chusing of a Governor. So likewise afterwards in this statute, when the Chancellor, Treasurer, &c. were by this act settled in their offices for life, this act gives them, or the greater part of them, power, according to the tenor, usage, and execution of the statute of *Henry Fitz Empress*, with the assent of the Nobles of the land, according as is specified in that statute, upon every such avoidance to be had, to chuse a Noble Lord to be Governor, &c. By which words we may be well assured, that *Henry 2d* did first institute the Courts of Justice in *Ireland*, and made there his Chancellor, Treasurer, Justice, &c. and did appoint them, with the Nobles of the land, to chuse a Governor, when that place was void. For the words are, that they, according to the tenor, usage, and execution of the statute of *Henry Fitz Empress*, and as it is specified in that statute; therefore if they must do it according to the tenor of that statute, and as it is therein specified, it must necessarily follow, that the Chancellor, Treasurer, Chief Justice, &c. are named particularly in that statute; else how could it be according to the tenor thereof, that they must do it, and as it is therein specified? or how could the ancient usage and execution thereof be according to that statute? And if the tenor, and antient usage, and execution of that statute

statute of *Henry 2d.* was, that these great Officers, with the Nobles, should make an election, then of necessity it must follow, that at the time of the making of that statute there were such Officers for *Ireland*, as Chancellor, &c. and who doubtless did after administer the laws of *England* for the subjects there; with which agreeth the statute of 33. *Hen.* 8. in *Ireland*, which saith, that since the conquest the law was, that the Council should elect a Justice, and of the Council have these great Officers always been

33. *Hen.* 8.
Sess. 2. Cap.
2.

To conclude this point, we have the resolution of both houses of Parliament in *Ireland* in a Session held there the 12th of May 1641, which themselves call the declaration and protestation of the lords spiritual and temporal, and Commons in Parliament assembled, which is entered in their journal books; in the beginning of which declaration there are these words (*viz.*) That in the reign of King *Hen. 2.* the Common Law and lawful customs of *England* were received, planted, and established in this his Majesty's Kingdom of *Ireland*.

And whereas the Author cites a Record out of Coke, Lit. Fol. 141 to prove, that King *John* first gave the laws of *England* to *Ireland*, because the Record saith.

' *Vestra* audivit discretio,
' quod quondam, bonæ memo-
' riæ, *Johannes*, quondam Rex
' Angliæ, Pater noster, venit in
' *Hiberniam*, ipse duxit secum
' Viros discretos, & legis peri-
' tos in *Hiberniam*, quorum
' communi consilio, et ad instan-
' tiam *Hibernensium*, statuit &
' præcepit leges Anglicanas in
' *Hibernia*, ita quod leges eas-
' dem in scripturas redactas re-
' liquit sub sigillo suo ad scac-
' carium *Dublin*.'

Your wisdoms have heard,
that heretofore *John*, King of
England, our Father, of happy
memory, came into *Ireland*, and
carried with him discreet men,
knowing in the laws, into *Ire-*
land, by whose concurrent ad-
vice, and at the instance of the
Irish, he settled and established
the laws of *England* in *Ireland*,
and left the same Laws reduc-
ed into writing under his seal
at his Exchequer in *Dublin*.

This (considering what has been said before) rather proves, that the *English* Laws were first given by *Hen. 2.* but after by King *John* reduced into writing, and left at his Exchequer in *Dublin*. For we do not find that King *John* erected

ted any Courts of Justice there; but in his Reign, when he came thither, he left the Laws in writing at his Exchequer in *Dublin*. Therefore, in all likelihood the Exchequer and other Courts were there before he came thither. And (as the saying is) nothing is begun and perfected at once, so we may well conceive, that altho' *Hen. 2d.* gave them the laws of *England*, and erected Courts and Officers there; yet being done presently upon the Conquest, and upon the end of the war, neither had he enough of learned men in the laws present with him, who commonly follow not the war, nor could the meaning of all the laws be exactly understood, used and practised by them suddenly, nor could they know the ways perfectly how they should be executed; and this being very troublesome to all, at the instance of the *Irish* (as the Record saith) or of the *English*, who accounted themselves *Irish*, many of them in 38 years being there born, King *John* brought over learned men, who should settle the laws, and bring them into due course, form, and order, and leave them to the people, and direct the execution of them as they were in *England*; and in that respect it may be well said, that—*statuit & præcepit leges*,—he appointed and established the laws, as also, because he put them into writing, and left them there in his Court of Exchequer for their better directions. And that this is the meaning of that Record somewhat clearly appears. For we find by the Histories of King *John's* time, that in the 12th year of his Reign he came into *Ireland*, and landed at *Waterford* with a great Army, which he brought against the *Irish*, who were then universally in rebellion, and after came to *Dublin*, where many of the *Irish Reguli*—petty Princes—came in—and submitted to him, and did him homage and fealty. There he caused *English* Money to be coined, marched into the land, and took divers fortresses and strong holds from his enemies, and did many things there for the reformation of the state, and then, after three months stay only in *Ireland*, he returned into *England*. Now it cannot be truly imagined, that he could do all these great matters, and also give them laws in writing, erect Courts of Justice, and settle all the Civil government in three months; and therefore we may well conclude, that he did only perfect what his Father had begun, and there-

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upon be accounted the giver of laws to the *Irish*; as in the building of colleges, though the foundation of the work be begun by one, yet he that comes after, and finishes it, hath oftentimes the reputation and name of the founder and builder of it.

From all which it is evident, that *Hen. 2d.* first gave the laws of *England* to *Ireland* upon the conquest thereof; by which an Union was made of it to *England*, and that these laws were used there long before King *John* was King, and that King *John* did not first give the laws of *England* there in the 12th year of his reign, as the Author would have it; that before that time, the antient laws of *Ireland* were there, and thence it must necessarily follow, that King *John* did not receive that kingdom from his Father without any laws before given them, or as a separated and divided kingdom from *England*, with which they had nothing to do, or that he did after establish the laws according to the model of *England*. Whereupon it must needs also follow, that the Author's discourse falls all in pieces, and is nothing to the purpose that he would have it.

And whereas the Author saith, that the laws of *England* had not any footing in *Ireland* till the 12th of King *John*, and therefore the Kingdom of *Ireland* could not be subordinate to the Kingdom of *England*, nor could the Parliament there extend their jurisdiction into *Ireland*. To this I answer, that it appears by what hath been said, that the laws of *England* were established there in *Hen. 2d's* time; but if it were admitted, that they were not, yet by the very Conquest there was a degree of union of the two kingdoms, as Sir *Francis Bacon* (q) concludes, upon which we may substantially ground this position (upon what he had formerly said) that the Common Law of *England* upon the adjunction of any kingdom to the kingdom of *England* doth make some degree of union in the Crowns and kingdoms themselves; and if the Parliament of *England*, as the Author saith, could not extend their jurisdiction into *Ireland*, to what purpose was that supposed grant by *Henry 2.* to *John* done by Parliament, as the Author in the beginning of his book saith it was, or by authority and assent of Parliament, as presently after in his answer to his own second question he saith it was; which, if any such like thing were done, though

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P. 46.

though without doubt not in that manner he would have it to be, it is plain that from the very Conquest, by his own confession, the Parliament of *England* had power over *Ireland*. Concerning the Author's reason, that a kingdom conquered is not subordinate to a kingdom conquering; for then, saith he, *England* should have been subject to *Normandy* by King *William's* conquest, it is answered, that by all that he hath cited out of others it appears, that if the Conqueror will subordinate the kingdom conquered to his other kingdom, and give them the same laws, they must be governed accordingly by them. And that was the cause why the Parliament of *England* did fear, when *Edw. 3.* had the title of the Crown of *France* devolved to him, and had changed his Stile, Arms and Seal, that the realm of *England* might become subject to the realm of *France*, or to the King, as King of *France*, because *Normandy* had conquered *England*, and *Normandy* was feudatory to *France*; therefore, because the Seigniorship of *France* was now united with the Tenancy of *Normandy*, and that *England*, in regard of the conquest, might be taken as a perquisite to *Normandy*, they had some probable reason to fear, that the Kingdom of *England* might be drawn to be subject to the realm of *France*, and therefore was that statute of the 14th of *Edw. 3.* chap. solo, made against it. See Sir *Francis Bacon's* argument of the *Postnati*, p. 21. Though in that case of *Normandy* it could not be so. For King *William* did not come into *England* by absolute conquest, as the Author seems to infer, nor did he claim any power by conquest, but as a regular Prince submitted himself to the orders of the kingdom, and desired rather to have his testamentary title to make good his succession, than his sword; and therefore took his personal oath to observe the antient laws of the realm established by his predecessors, and especially those of *Edward the Confessor*. And therefore that case is not to be compared to this of *Ireland*, where the conquest was absolute, and the land annexed to the Crown of *England* both by the Common Law, and by the aforementioned antient statute; and where the laws of *England* were given them, by which they always were, and yet are governed.

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The 2d question made by the Author is, that admitting *Ireland* were inseparably annexed unto *England*, or subordinate to the jurisdiction of that Parliament, whether by the grant of King *Henry* 2d to his Son *John*, the same be not separated and disjoined from the Kingdom of *England*, and thereby the regal power by King *Henry* 2. were not totally transferred to his Son. To which he answers; that although *Ireland* had by the conquest *ipso facto* been united to *England*, as he saith it was not, yet the said Union is not so inseparable, but it might be, and was separated, by the grant of King *Henry* 2d; wherein we are to consider, saith he, not only the bare grant itself, but the circumstances and solemnities of it, &c.

To this it is said, that the Author makes this question by way of admittance: For his first question is, whether upon the conquest by *Hen.* 2d immediately the Kingdom of *Ireland* were inseparably annexed unto *England*, and this his second question is, admitting that it were, whether by the grant of King *Henry* 2d to his Son *John*, the same be not separated? To which he saith, the Union is not so inseparable, but that it might be, and was separated. How these two can hang together, that admit it was inseparably annexed, yet that it might be separated, can be well conceived? For if it might be separated, then it was not inseparably annexed, and therefore the question is to no purpose, or else his answer gives no satisfaction to it. For that which he admitted to be inseparable, he presently again denies, and says it is separable, and was separated; which that it was separated he never can be able to prove, as was formerly in the beginning of this treatise shewed; and for the circumstances and solemnities of his supposed grant they are likewise formerly answered, and need no more repetition of them.

The Author's third question is, in what capacity King *John* established the laws of *Ireland* to be according to the laws of *England*, he being King of *England* by descent from his Brother *Richard*, whether by any power from the donation of his Father, or by vertue of the descent from his Brother. To which he answers, that of necessity it must be by the regal power he had by the donation of his Father, and not by any power descended to him from his Brother, who (saith he) had none in *Ireland*; because it was before the descent of

of the Crown of *England* to him given by his Father King *John*.

To which it is answered, that all he says is utterly denied. For it is before plainly proved, that there was no such absolute donation from *Hen. 2.* to *John*, but that he had *Ireland* by descent from his Brother *Richard*, and by that title he confirmed and regulated the laws in *Ireland*, which were first given them by his Father, and not by any regal power, which he had before he was King of *Ireland*.

And whereas the Author, upon his answers to his own questions, concludes, that *Ireland* is a free and distinct kingdom of itself; and in his answer to his second question insists much upon it, and cites *Calvin's* case for proof thereof; we shall grant him, that in divers respects *Ireland* is a separate and distinct kingdom, and divided from *England*; as a Fine in *England* shall not bar them that are in *Ireland*, &c. But tho' the kingdoms are separate, yet the Dominion and Government thereof is not separate from *England*, as is plainly before proved; and it is not the situation of the country, or because the sea runs between them, that makes a separation of the Government. For then we may on the contrary as well conclude, that *Scotland* is subject to the Parliament of *England*, because it is within the same island with *England*, and not divided from it.

If the King of *England* should conquer any territories beyond sea, and give them the laws of *England*, and annex them to the Crown of *England*, I think none will say, that the distance of place will shake off the Power of the Government of *England*; no more will it do that of *Ireland*.

In a natural body there is a distance of place betwixt the head and the other members, as the head and foot; and yet there is a knitting of the members to the head, else could not any spirits be derived from the head to them. So it is in this case of *Ireland*, which being a member of the Crown of *England* is knit unto the same, and receives spirits (that is laws) from them: And therefore, if we consider *England* and *Ireland* as one body politic (which is not in all things to be compared to a natural body) and as *Ireland* is a member of the politic body of *England*, we may truly conclude from all that hath been said, that *Ireland* is under the jurisdiction

rifdiction of the Parliament of *England*, and fubject thereunto.

After the Author hath made his three queftions, and answered them, as you have heard, he fays, it will be neceffary for our further fatisfaction to know by what law it is, that the ftatutes made in *England* fhould bind in *Ireland* without the approbation of the Parliament there, whether by the Common Law, Statute Law, or any other law. If by the Common Law, it muft have two qualities, Firft, reafon for its foundation and beginning; Secondly, time for its life and continuance.

To which it is answered, that by the very conqueft there was an union of *Ireland* to *England* by the Common Law, and fo being a member of *England* it was fubject to the laws of *England*, and alfo by giving them the laws of *England*; and it was alfo fubjected to the laws of *England* and ftatutes thereof by the confirmation of the union betwixt them by the ftatute cited in the faid Roll of the 30th of *Hen 3.* before remembered, by which *England* and *Ireland* were united, and were to be governed by the fame laws, and by that other recited ftatute, that there fhould be the fame law both for the *Engliſh* and *Irish*. And for the time that this hath been fo, it appears by the forenamed Records to have been always fo ufed. And for his reafons that it fhould not be fo, becaufe it is no reafon, that the fubjects of *Ireland* fhould be bound by laws whereto they are not parties or privies, and that if it fhould be fo, the Parliaments of *England* might at their pleaſure diſinherit the fubjects of *Ireland* of their lands, honours, &c. they are before answered in the answer to his inconveniencies, where he alledged the fame reafons, and therefore might have ſpared them now.

The Author alfo tells us, that St. *Germain* (r) faith, that (r) Doctor the law of *England* is grounded upon fix principal grounds, and Student ſome of which himſelf faith are not pertinent to this pur- Lib. 1. Cap. poſe. 4.

His firſt ground is, that it muſt be grounded upon the law of reafon, which (faith he) this law, if it were fo, is not, and tells us the ſame reafons, which have been before answered, as is ſaid juſt now.

His ſecond ground is, that it muſt be grounded upon the law of God; and it is moſt certain (ſays he) nothing can be

found in the law of God to prove, that the statutes of *England* should be binding laws in *Ireland*.—A weak argument ; for neither can any thing be found in the law of God to prove, that the statutes of *England* should not be binding in *Ireland*, which is answer sufficient to such a reason, which is not worth answering.

The third ground is, the general customs of the realm, which (saith he) will altogether fail in this case. For from the 12th year of King *John*, until the 1st of *Hen.* 7. which was almost 240 years, this doctrine was not so much as dreamed of (which whether it were so or no appears before) until *Hussey* bestowed it upon *Ireland*, and then after taxes the Lord *Coke* for the same opinion, which being answered before needs no repetition.

But yet he hath not done with *Coke*. For saith he, *Coke* in the second part of his Institutes fol. 2. will not allow the statute of *Magna Carta*, (which in his whole discourse of the exposition thereof he holds to be but an explication of the antient Common Law) to be of force in *Ireland* till the 10th of *Hen.* 7. wherein he was exceedingly mistaken. For King *John* established the Common Law of *England* in *Ireland*, and the statute of *Magna Charta*, being nothing else but the Common Law, if these were not established nothing was but a shadow, and then was *Ireland* almost 250 years destitute of the benefit of the laws of *England*, which (saith he) is a great oversight ; and therefore, as the Lord *Coke* hath mistaken the law in *Calvin's* case, so hath he done in this of *Magna Charta*.

The Author, in charging the Lord *Coke* with great oversights and mistakes, shews himself at least to be overseen and mistaken in this his very Charge. For the only mistake of the Lord *Coke* is, that he conceived that *Magna Charta* was not of force in *Ireland* till the 10th of *Hen.* 7. which is only a mistake of a matter of fact ; for in truth we find that statute was given to them of *Ireland* in the first year of *Hen.* 3. and all the Chapters thereof (except three or four of the last Chapters) are entered in the Red Book of the Exchequer of *Ireland*, where in the beginning, after the King's stile recited, he saith—Imprimis concessimus Deo, et hac præsentì Chartâ nostrâ confirmamus pro nobis & hæredibus nostris in perpetuum, quod *Hibernica* Ecclesia libera
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fit &c.—First we have granted to God, and by this our Charter confirm for us and our heirs for ever, that the Church of *Ireland* be free.—Sir *John Davis* (s) cites a Re-^(s) Discou- cord in the Tower 1st *Hen.* 3. Memb. 13. of the like^{p. 101.} Charter of Liberties granted by *Hen.* 3. to his Subjects in *Ireland*. as himself and his Father had granted to the Subjects of *England*; but yet this mistake is only for that *Coke* was not informed of that matter of fact: but the Author's mistakes, if you will call them no more, are of another nature. For he saith, that the statute of *Magna Charta* is nothing else but the Common Law; whereas, it is evident it is nothing so, as we may see in *Coke*, (t), where it is expressly affirmed,^{(t) 8. Repi fol. 19. Prince's Case,} that divers parts of the statute of *Magna Charta* do cross and change the Common Law: and altho' the Author saith, that *Coke*, in his whole discourse of the statute of *Magna Charta*, holds it to be but an explanation of the antient Common Law, yet it is most apparent to any that shall read, that he holds the contrary in many things, and shews in many particulars how that law differs from the antient Common Law: as *Chap.* 11. concerning the Court of Common Pleas, *Chap.* 12. for returning Writs of Affize, *Chap.* 14. upon which the Writ *de moderatâ misericordiâ* is grounded, *Chap.* 30. concerning merchants, *Chap.* 32. concerning alienation of Lands, *Chap.* 34. concerning Appeals, *Chap.* 36. concerning Grants to religious houses: by which it appears still more and more, that the statute Laws of *England* were given to *Ireland*, as well as the Common Laws, and this being received there as well as the Common Law, therefore it must needs follow, that both Statute and Common Law were given to *Ireland*, which they received, and were thereby bound. But because *Coke* was mistaken in one matter of fact, which came not to his knowledge, therefore he was mistaken, as the Author saith, in *Ca'vin's Case*, (*viz.*) (that the laws of *Eng'land* do bind in *Ireland*, if *Ireland* be named) doth no more follow, than if we should say, the Author was mistaken in affirming confidently, that never any judgment was given in *Ireland* upon a statute made in *England*, which is a meer positive law, before the same was received and allowed by the Parliament in *Ireland*, and therefore so he is in the rest of his discourse.

The 4th and 5th ground, which the Author cites out of *St. Germain*, are maxims and particular customs, which he confesseth are not pertinent to the matter in question.

The 6th and last ground is Statute Laws; and most certain it is, says he, that there is not any statute extant either in *England* or *Ireland*, whereby it is enacted, that any statute made in *England* should be of force in *Ireland* before the same were enacted in *Ireland*; wherein to prove how greatly the Author is mistaken, the Reader is referred to the statutes before recited, and to the former part of this Discourse.

The Author at last begins to draw to an end, and saith, "that because *Ireland* is a body politick of itself, consisting of Kings, Peers, and Commons, in such sort as the Peers and Commons of *England* cannot be any part thereof, no more than the Peers and Commons of *Ireland* can be members of the body politick of *England*," it cannot stand either in law or common reason, that one body politick should be subject to the controul of another: For then the King, which is the head of the one and the other, should be both superior and inferior to himself, and his royal and politick Government; which in itself is altogether repugnant.

The Author's reasoning is still of one and the same kind. For it doth not follow, that tho' the Parliament of *Ireland* be a body politick of itself solely considered, therefore *Ireland* cannot be part of the whole body politick of *England*, in which *Ireland* is comprehended, as a member. For though the Peers of *Ireland* be not Peers of the Parliament of *England*, yet all the whole Kingdom of *Ireland*, Peers and Commons, is but a member of *England*, having respect to the whole politick body thereof. And therefore, whereas the Author saith, that one body politick cannot be subject to the controul of another, doubtless, he is mistaken. The City of *London* is a body politick, and hath divers Laws made, and Grants confirmed to them by Parliament, as they are a body politick, and yet they are subject and subordinate to the Parliament; and, as *London* and *Dublin*, and other Corporations have their Mayor, Court of Aldermen, and Common Council, none of which, as they are part of their body politick only, can be members of Parliament, nor any of the members of Parliament, as members of Parliament, can be members of their Corporation, and yet are all subject to the Parliament: and so of *Ireland*, they

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are a body politick in the Parliament of *Ireland*, and yet none of them can by vertue thereof be members of Parliament of *England*, nor any of the members of the Parliament of *England*, as members of the Parliament there, can be members of the Parliament of *Ireland*; and yet all *Ireland*, considered as a member of *England*, are subject to the laws of *England*.

County Palatines are subject to the Parliaments of *England*, and to their controul; and yet I think that the Author will not deny, that in a County Palatine there is a body politick.

But saith the Author, if this should be so, then the King should be superior and inferior to himself in his regal and politick Government. To which, it is again said, that yet his argument follows not, neither can any such thing be truly inferred therefrom, any more than if he should say, because the King is the head of the Parliament in *Ireland*, as a body politick, and also of the Parliament of *England*, therefore there are two several bodies that have but one head.

In a natural body if we consider only the head and the hands; the head is head of that hand, and yet is not so only of the hand, but it is head also of the whole body. So if we consider the King, and the politick body of *Ireland*, the King is head thereof, and yet he is not so only of them, but he is head also of the whole politick body of *England*, and *Ireland*, which body consists of both Kingdoms, thus considered without any relation to superiority or inferiority: and if the King will dispense his Grace to one part of the body, it doth not thence follow that the King is inferior to himself; and, unless the Author can make it a good argument, that the King cannot do an act of a high nature to all, and an act of the same or a meaner nature to some, but that he must be superior and inferior to himself, his argument cannot be good.

The King upon misinformation grants a Patent, &c. and after, being truly informed,——*jure Regio*——by his Royal right——he revokes the same, he doth both these as King, without being superior or inferior to himself. There is a judgment given in the King's Bench, which is supposed in law to be by the King himself, this judgment is after reversed in Parliament, where there is the same supposition, and both these done in his royal capacity, shall any man say

say therefore, that the King is superior or inferior to himself in his government, more than if a natural man should do any particular act, and after do the contrary? And therefore the Author mistakes in making the comparison in the Person, whereas, it should be in the things done by the Person. A man may do a thing of a high nature, and another of a low, or a thing contrary to that which he first doth, and yet be the same man. A man may give a pound to one man, and a shilling to another, or 20*l.* to them both, which are divers acts, one greater than the other, and yet he is the same man without being superior or inferior to himself; and the difference is only in the things done by the man, and not in the man that doth them. So the King, as the head of the body politick of *Ireland*, considering *Ireland* alone without relation to *England*, may consent to laws which they would have made, and yet as supreme head of the body politick of *England*, of which *Ireland* is then to be considered as a member, and comprehended therein, may consent to laws which shall bind them all without any such repugnancy as the Author imagines.

The Author hath now done, and falls to his prayers, that God would preserve his Majesty to govern the Kingdom in peace, to God's glory, his own honour, and the welfare of all his good subjects, to which prayer, I doubt not, but all his subjects will with him heartily, as he desires, say, *Amen.*

It is again to be remembered, that which was formerly touched in this answer, what a derogation and diminishing of the King's power and authority, and what an alteration of his Government would happen to him, if the law were not so as is proved by this treatise. For though the law be, that the King and Parliament of *England* may make laws to bind *Ireland*, yet his Majesty may summon Parliaments in *Ireland*, and have such laws made there, as he and his Councils of *England* and *Ireland* shall think fit, according to the statute of the 10th of *Hen. 7.* and the 3d and 4th of *Philip and Mary*, without relation to the Parliament of *England*, and as, since the making of those statutes, have been usually done. But if the Parliaments in *Ireland* should be refractory, and would not pass such laws as his Majesty should think fit for them, though they were never so profitable, honourable, and just, both for the King and them, there were

no means to make them receive such laws, if the Parliament of *England* had not power over them; but they may refuse and reject all laws proferred to them, though never so good and wholesome for them. But the King and Parliament of *England*, having power over them to give them laws, if they should be obstinate, and refuse good laws, his Majesty hath thereby a lawful means to make such laws for them, as shall be thought fit by him and his Parliament of *England*; which power of his, by the Author's opinion and discourse, would be wholly taken away from his Majesty, though, as by this treatise appears, the Kings of *England* have always enjoyed and used the same.

F I N I S.



